

electronic notice of opposition. For a paper filing with insufficient fees, the Board will notify opposer when the opposition is instituted and will indicate in the notification the opposers and classes opposed, *i.e.*, for which the required fees were submitted. There will be no opportunity to submit additional fees for a paper filing.

*Comment:* Seven comments disagreed with the proposed 120-day limitation from the date of publication on extensions of time to oppose an application, noting that a longer period of time is necessary to facilitate settlement negotiations. Of these comments, four comments recommended that the 120-day limitation on extensions of time to oppose be extended to 180 days; one comment recommended that the 120-day limitation on extensions of time to oppose pertain only to applications filed under section 66(a); and one comment recommended both that the limitation on extensions of time to oppose pertain only to applications filed under section 66(a) and that the limitation be extended to 180 days.

*Response:* The Office has adopted the recommendation that potential opposers be permitted to extend the time for filing an opposition to up to 180 days from the date of publication. The Office has not adopted the recommendation that this limitation pertain only to section 66(a) applications. The Office encourages use of its electronic systems and does not have the resources at this time to develop an electronic opposition filing system that can handle different filing deadlines for different types of applications. Further, different opposition filing deadlines for different types of applications would be difficult for the Board to handle administratively and would be likely to confuse potential opposers. Finally, the Board will discontinue its practice of suspending a potential opposer's time to file a notice of opposition when a letter of protest or an amendment to the application has been filed. However, the Board is continuing its practice of permitting suspension of an opposition, once filed, to facilitate and encourage settlement negotiations.

*Comment:* Two comments expressed concern that § 2.105 is not written clearly and could be easily misconstrued. The comments recommended that § 2.105 be rewritten to clarify to whom notification will be sent in each instance.

*Response:* The section has been rewritten to parallel § 2.18, as appropriate, and to clarify its intent.

*Comment:* Three comments noted that petitions to cancel with insufficient fees

for documents filed electronically via ESTTA are treated differently from those filed on paper; and requested that the rules be amended to allow for uniform treatment for petitions to cancel with insufficient fees regardless of the manner in which they are filed. One of the three comments suggested that the Office implement a mechanism in ESTTA to ensure that all sufficient fees are paid as part of the electronic filing of a petition to cancel.

*Response:* The language of § 2.111(c)(2) has been modified to more clearly reflect the fact that a potential cancellation petitioner may not submit a petition to cancel electronically via ESTTA with an insufficient fee. In addition to not being able to transmit the petition for cancellation via ESTTA with an insufficient fee, the sender should receive an immediate electronic message that the transmission is not possible and the reason why transmission is not possible. A potential cancellation petitioner filing via ESTTA must either submit the correct fee for the numbers of parties and classes set forth in the electronic petition to cancel, or delete classes and/or parties from the electronic petition to cancel. If a paper filing is submitted with insufficient fees for at least one party to petition for cancellation against at least one class, the Board will simply return the papers to the sender. If a paper filing is submitted with sufficient fees for at least one party to petition for cancellation against at least one class in the registration sought to be cancelled but with insufficient fees for all stated parties and/or all classes, the Board will institute the cancellation proceeding with respect to the number of parties and classes for which fees have been submitted, according to § 2.111(b)(3), and send notification of the petition for cancellation to the parties. The notification will list only the parties and classes for which the required fees were submitted.

*Comment:* Two comments expressed concern that § 2.113(a) is not written clearly and could be easily misconstrued. The comments recommended that § 2.113(a) be rewritten to clarify to whom notification will be sent in each instance.

*Response:* The section has been rewritten to parallel § 2.18, as appropriate, and to clarify its intent. Sections 2.113(b), (c) and (d) have been relabeled accordingly.

*Comment:* One comment pertaining to § 2.118 recommended that all correspondence be sent to the correspondence address of record.

*Response:* This recommendation has not been adopted. In relation to § 2.118,

this is essentially a recommendation to send notification of a petition to cancel to the attorney of record during the prosecution of an application that subsequently registered and is now the subject of a petition for cancellation, rather than sending such notification directly to respondent. The practice under the existing rule, and this provision has not been changed by this regulation, is for the Office to correspond directly with the registrant until notified otherwise by the registrant. The Office considers the appointment of an attorney to prosecute the application to lapse once the registration issues. The Board will send the notification to the registrant of record in the Office at the registrant's address of record, or if registrant is located outside the United States and a domestic representative is of record, to the registrant at the address of the domestic representative.

*Comment:* One comment recommended that § 12.126(a)(4) permit paper submissions to the Board to be bound or fastened if the contents can be easily separated. The comment expressed concern that after scanning, the papers will not be replaced in the file in their original order.

*Response:* This recommendation has not been adopted. All paper submissions are scanned electronically into the Board's Trademark Trials and Appeals Information System (TTABIS). When the papers are scanned, the Board's scanning equipment keeps pages in their original order throughout the scanning process. Where papers are filed with pages simply clipped together, the scanning process has not been adversely affected. On the other hand, removing staples or binding prior to scanning has been difficult and time-consuming, especially where papers have been bound by machine. Moreover, disassembling stapled or bound papers can damage pages, resulting in misfeeds to the scanning equipment and increasing the likelihood that pages will become disordered during scanning.

*Comment:* One comment recommended, with respect to § 2.127(a) regarding motions in inter partes proceedings at the Board, that, rather than retaining discretion to consider reply briefs, the Board should consider all reply briefs; and reduce the time for filing a reply brief, if a reply brief is filed, from fifteen to ten days from the date of service of a brief in response to the motion.

*Response:* This recommendation was not accepted. The recommendation to consider all reply briefs, including reply briefs that improperly address matters outside a proper response to statements