

a registration resulted from an Office error.

Applicants and registrants are advised to carefully review notices of publication, notices of allowance, and certificates of registration to ensure that the data is correct, so that any necessary requests for correction can be filed within one year of the date of registration.

Requirement For Submission of Original Certificate of Registration or Certified Copy

Currently, § 2.172 requires that an application for surrender of a registration for cancellation under section 7 of the Trademark Act be accompanied by the original certificate, if not lost or destroyed. If the original certificate is submitted, the Office will destroy the certificate once the registration is cancelled. If the original certificate does not accompany the request, the Office assumes that the certificate is lost or destroyed, and processes the request for cancellation.

Sections 2.173, 2.174, and 2.175(b) currently require that a request for amendment or correction of a registration under section 7 of the Trademark Act be accompanied by the original certificate of registration or a certified copy thereof. The Office amends or corrects the registration by attaching an updated registration certificate, showing the amendment or correction, to the original certificate of registration and to the printed copies of the registration in the Office. See 37 CFR 2.173(c), 2.174 and 2.175(c). The Office returns the original registration certificate, or certified copy thereof, with the updated registration certificate attached, to the owner of record. TMEP §§ 1609.01 and 1609.09.

The Office believes that requiring the registrant to submit the original certificate or a certified copy is unnecessary and inefficient. The Office proposes to eliminate this requirement. When amending or correcting a registration, the Office will send the updated registration certificate showing the amendment or correction to the registrant, and instruct the registrant to attach it to the certificate of registration. The Office will also update its own records to show the amendment or correction. The Office will send an updated registration certificate to the owner of record.

Discussion of Specific Rules

The Office proposes to amend §§ 2.172, 2.173, 2.174, 2.175, and 2.176.

The Office proposes to amend § 2.172 to eliminate the requirement that an application to surrender a trademark

registration for cancellation be accompanied by the original certificate of registration.

The Office proposes to amend § 2.173 to eliminate the requirement that a request for amendment of a trademark registration be accompanied by the original certificate of registration or a certified copy thereof.

The Office proposes to amend § 2.174 to: (1) Eliminate the requirement that a request for correction of a mistake by the Office in a trademark registration pursuant to section 7(g) of the Trademark Act be accompanied by the original certificate of registration or a certified copy thereof; and (2) add a requirement that a request for correction of a mistake by the Office be filed within one year of the date of registration.

The Office proposes to amend § 2.175 to: (1) Eliminate the requirement that a request for correction of a mistake by a registrant in a trademark registration pursuant to section 7(g) of the Trademark Act be accompanied by the original certificate of registration or a certified copy thereof; and (2) add a requirement that a request for correction of a mistake by a registrant be filed within one year of the date of registration.

The Office proposes to amend § 2.176 to change "Examiner of Trademarks" to "Post Registration Examiner."

Rule Making Requirements

Regulatory Flexibility Act

The Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule changes will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)).

Executive Order 13132

This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rule making has been determined not to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collections of information and recordkeeping requirements have been reviewed and

approved by OMB under OMB Control Number 0651-0009, Trademark Processing. Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 2

Administrative practice and procedure, Trademarks.

For the reasons given in the preamble and under the authority contained in 35 U.S.C. 2 and 15 U.S.C. 1123, as amended, the Office proposes to amend part 2 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. The authority citation for 37 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

2. Revise § 2.172 to read as follows:

§ 2.172 Surrender for cancellation.

Upon application by the registrant, the Director may permit any registration to be surrendered for cancellation. Application for surrender must be signed by the registrant. When there is more than one class in a registration, one or more entire class(es) but less than the total number of classes may be surrendered. Deletion of less than all of the goods or services in a single class constitutes amendment of registration as to that class (see § 2.173).

3. Amend § 2.173 by revising paragraph (a) to read as follows:

§ 2.173 Amendment of registration.

(a) A registrant may apply to amend a registration or to disclaim part of the mark in the registration. The registrant must submit a written request specifying the amendment or disclaimer. This request must be signed by the registrant and verified or supported by a declaration under § 2.20, and accompanied by the required fee. If the amendment involves a change in the mark, the registrant must submit a new specimen showing the mark as used on or in connection with the goods or services, and a new drawing of the amended mark. The registration as amended must still contain registrable matter, and the mark as amended must be registrable as a whole. An amendment or disclaimer must not materially alter the character of the mark.

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