

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 10, 2002.

**B.M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 02-12421 Filed 5-16-02; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Part 2

RIN 0651-AB52

#### Processing Fee for Use of Paper Forms for Submission of Applications for Registration and Other Documents

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) proposes to amend its rules to require payment of a \$50.00 paper-processing fee when a party submits a paper instead of an electronically transmittable form available through the Trademark Electronic Application System (TEAS). If a party submits a paper document to the USPTO, and the TEAS system includes a form for preparing that document and transmitting it to the USPTO electronically, the fee for submitting the paper document will be fifty dollars more than the fee for submitting the equivalent electronic document via TEAS.

**DATES:** Comments must be received by June 17, 2002, to ensure consideration.

**ADDRESSES:** Mail comments to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, attention Craig Morris; fax comments to (703) 872-9279, attention Craig Morris; or e-mail comments to [tmefiling@uspto.gov](mailto:tmefiling@uspto.gov). Copies of all comments will be available for public inspection in Suite 10B10, South Tower Building, 10th floor, 2900 Crystal Drive, Arlington, Virginia 22202-3513, from 8:30 a.m. until 5:00 p.m., Monday through Friday, as well as on the USPTO web site: [www.uspto.gov](http://www.uspto.gov).

**FOR FURTHER INFORMATION CONTACT:** Craig Morris, Office of the

Commissioner for Trademarks, (703) 308-8910, extension 136; or e-mail to [tmefiling@uspto.gov](mailto:tmefiling@uspto.gov).

**SUPPLEMENTARY INFORMATION:** The USPTO proposes to amend 37 CFR 2.6(a), § 2.6(a) of the Rules of Practice in Trademark Cases, (rules), to provide that if a party submits a document using paper, and a form for preparing and electronically submitting that document is available in the Trademark Electronic Application System (TEAS), the fee for submitting the paper document will be \$50.00 more than the fee for submitting the equivalent TEAS document.

TEAS is a collection of electronic trademark-document forms. The documents for which TEAS forms are currently available are: (1) Applications for registration of marks under Sections 1 and 44, Trademark Act of 1946, as Amended, (Trademark Act), 15 U.S.C. 1051 and 1026; (2) amendments to allege use under section 1(c) of the Trademark Act, 15 U.S.C. 1051(c); (3) statements of use under section 1051(d) of the Trademark Act, 15 U.S.C. 1051(d); (4) requests for extensions of time to file a statement of use under section 1(d) of the Trademark Act, 15 U.S.C. 1051(d); (5) affidavits of continued use or excusable nonuse under section 8 of the Trademark Act, 15 U.S.C. 1058; (6) applications for renewal under section 9, 15 U.S.C. 1059; (7) affidavits of incontestability under section 15 of the Trademark Act, 15 U.S.C. 1065; (8) combined affidavits under sections 8 and 15 of the Trademark Act, 15 U.S.C. 1058 and 1065; and (9) combined filings under sections 8 and 9 of the Trademark Act, 15 U.S.C. 1058 and 1059.

As additional TEAS forms are created, the USPTO may, after appropriate notice, require that parties who submit paper documents in place of these new TEAS forms pay a \$50.00 processing fee for each document submitted on paper.

The amount of the processing fee was calculated using the Activity-Based Costing method employed by the USPTO in its budgeting process. The \$50.00 paper-processing fee reflects the additional average cost of processing a paper document rather than an electronic document within the Trademark Operation.

Each TEAS form can be completed by the trademark applicant or attorney and filed with the USPTO at the click of a button. The system is available at [www.uspto.gov](http://www.uspto.gov) 24 hours a day, seven days a week, and can be used by anyone with NETSCAPE NAVIGATOR® (version 3.0 or higher) or MICROSOFT INTERNET EXPLORER® (Version 4.0 or higher).

To file an initial TEAS application for a stylized or design mark, or to include a specimen with a TEAS submission, the filer must attach a black-and-white GIF or JPG image file. Additionally, although TEAS is available at all times, during the hours between 11 p.m. EST, Saturday, and 6 a.m. EST, Sunday, credit card payments cannot be processed. Therefore, during those hours, any fees associated with a TEAS submission cannot be paid using a credit card. However, fees may be paid at all times using either electronic funds transfers or a USPTO deposit account.

#### Benefits of a Processing fee for Paper Filings

When a customer elects to use TEAS rather than paper, substantial benefits accrue both to the customer and to the USPTO.

Processing paper documents is more costly, labor-intensive, and results in additional errors, misfilings and losses as contrasted to electronic filing. A new application must undergo multiple steps before it is ready for examination, including fee processing, review for minimum filing requirements, capture of data into automated databases, and paper file jacket assembly. In addition to processing new applications, the USPTO must sort through several thousand other documents that are received on a daily basis. These documents must be delivered to the appropriate work unit, matched with the paper file, and entered into the file jacket and the automated systems.

Processing electronically submitted TEAS documents, in contrast, is substantially less costly and less labor intensive, and is subject to fewer errors. As a result, the data in the USPTO's databases from an electronically submitted document tends to be of higher quality than the same data from a paper document and is moved into the USPTO's databases at substantially less cost than the data captured from paper documents. The data provided in electronic submissions is tagged to permit transfer into the USPTO's databases with a minimum of human intervention. Additionally, electronically submitted documents are less likely to be misdirected.

Electronic filing benefits the public as well. TEAS is available for filing trademark documents 24 hours a day, seven days a week at <http://www.uspto.gov>. During the hours between 11 p.m. EST, Saturday, and 6 a.m. EST, Sunday, TEAS is available but credit card payments cannot be processed. When a document is filed electronically, the USPTO receives the document within seconds after filing,

and immediately issues a confirmation of filing via e-mail. This confirmation is evidence of filing should any question arise as to the filing date of the document. Under § 1.6(a)(4) of the rules, trademark-related correspondence filed via TEAS is considered to have been filed on the date the USPTO receives a complete transmission of the correspondence, regardless of whether that date is a Saturday, Sunday, or a Federal holiday within the District of Columbia. Thus by using TEAS, applicants, registrants and their attorneys can ensure a "date certain" for any filing made using TEAS.

Electronically filed applications are processed faster than their paper counterparts. Filing receipts for TEAS applications are sent via e-mail the same day the document is filed, while filing receipts for paper applications are mailed about 14 days after filing; critical data concerning TEAS applications (e.g., mark, goods and services, owner, etc.) are entered into the automated systems (and therefore made available to anyone searching USPTO records for conflicting marks) within 10 days, while data concerning paper applications are entered and made available to the public approximately 14–15 days after filing; and TEAS applications are received in the e-Commerce law offices and available for review in 20 days, whereas it takes about 70 days to assemble and deliver paper application files to the Law Offices.

Electronic filing and communication allow the USPTO to provide more customers with better quality, using fewer resources. Electronic filing improves the quality and accuracy of the information that is submitted to and processed by the USPTO. Customers have greater assurance that the content of the electronic application is complete, because the information provided by the customer is loaded directly into the USPTO's automated systems.

A processing fee for filing paper when a TEAS form is available, will offset the additional costs that the USPTO incurs when it processes paper.

As the relative costs of processing paper and electronic submissions become more apparent, the USPTO may, after appropriate notice, revise the rules to lower the fees for TEAS submissions.

#### **Discussion of Specific Rules Changed or Added**

The USPTO proposes to revise paragraph (a) of 37 CFR 2.6 to provide that a party who files a paper document that is available in TEAS must pay a paper processing fee of fifty dollars.

#### **Rulemaking Requirements**

The USPTO has determined that the proposed rule changes have no federalism implications affecting the relationship between the National Government and the State as outlined in Executive Order 12612.

The Chief Counsel for Regulation of the Department of Commerce 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)). The rule will not significantly impact any businesses. As a result, an initial regulatory flexibility analysis was not prepared.

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). The proposed changes have been determined not to be significant for purposes of Executive Order 12866.

Notwithstanding any other provision of law, no person shall be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. This rule contains collections of information requirements that have been approved by OMB under OMB Control Number 0651-0009. The public reporting burden for this collection of information is estimated to average as follows: seventeen minutes for applications to obtain registrations based on an intent to use the mark under 15 U.S.C. 1051(b), if completed using paper forms; fifteen minutes for applications based on 15 U.S.C. 1051(b), if completed using electronic forms; twenty-three minutes for applications to obtain registrations based on use of the mark in commerce under 15 U.S.C. 1051(a), if completed using paper forms; twenty-one minutes for applications to obtain registrations based on 15 U.S.C. 1051(a), if completed using electronic forms; twenty minutes for applications to obtain registrations based on an earlier-filed foreign application under 15 U.S.C. 1126(d), if completed using paper forms; nineteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(d), if completed using electronic forms; twenty minutes for applications to obtain registrations based on registration of a mark in a foreign applicant's country of origin under 15 U.S.C. 1126(e), if completed using paper forms;

eighteen minutes for applications to obtain registrations based on 15 U.S.C. 1126(e), if completed using electronic forms; thirteen minutes for allegations of use of the mark under sections 2.76 and 2.88 if completed using paper forms; twelve minutes for allegations of use under sections 2.76 and 2.88 if completed using electronic forms; ten minutes for requests for extensions of time to file statements of use under section 2.89 if completed using paper forms; nine minutes for requests for extensions of time to file statements of use if completed using electronic forms; eleven minutes for Section 8 affidavits if completed using paper forms; ten minutes for Section 8 affidavits if completed using electronic forms; fourteen minutes for combined Sections 8 and 9 filings if completed using paper forms; thirteen minutes for combined Section 8 and 9 filings if completed using electronic forms; fourteen minutes for combined Sections 8 and 15 affidavits if completed using paper forms; thirteen minutes for combined Sections 8 and 15 affidavits if completed using electronic forms; eleven minutes for Section 15 affidavits if completed using paper forms; and ten minutes for Section 15 affidavits if completed using electronic forms. These time estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency; (2) the accuracy of the agency's estimate of the burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information to respondents.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: PTO Desk Officer).

#### **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. 41, as amended,

the USPTO proposes to amend part 2 of title 37 as follows:

## PART 2—RULES OF PRACTICE IN TRADEMARK CASES

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

**Authority:** 35 U.S.C. 2.

2. Revise § 2.6(s) to read as follows:

### § 2.6 Trademark fees.

\* \* \* \* \*

(a) \* \* \*

Rule	Description of trademark processing fee	Electronic filing TEAS fee amount	Paper filing fee amount
(1) .....	Application for registration, per class .....	\$325	\$375
(2) .....	Filing an Amendment to Allege Use under § 1(c), per class .....	100	150
(3) .....	Filing a Statement of Use under § 1(d)(1), per class .....	100	150
(4) .....	Filing a request for a six-month Extension of Time to file a Statement of Use under § 1(d)(1), per class .....	150	200
(5) .....	Application for renewal, per class .....	400	450
(6) .....	Additional fee for filing a renewal application during grace period, per class .....	100	150
(7) .....	Publication of mark under § 12(c), per class .....		100
(8) .....	Issuing a New Certificate of Registration .....		100
(9) .....	Certificate of Correction, per registration .....		100
(10) .....	Filing Disclaimer to Registration, per registration .....		100
(11) .....	Filing an Amendment to Registration, per registration .....		100
(12) .....	Filing a Section 8 Affidavit, per class .....	100	150
(13) .....	Filing a Section 15 Affidavit, per class .....	200	250
(14) .....	Additional fee for filing under § 8 during the six-month grace period, per class .....	100	150
(15) .....	Petition to Commissioner .....		100
(16) .....	Petition for Cancellation, per class .....		300
(17) .....	Notice of Opposition, per class .....		300
(18) .....	Ex Parte Appeal, per class .....		100
(19) .....	Request to Divide an Application, per new application file created .....		100
(20) .....	Correcting a deficiency in a § 8 affidavit, per registration .....		100
(21) .....	Correcting a deficiency in a renewal application, per registration .....		100
(22) .....	Filing a combined § 8 affidavit and renewal application, per class .....	500	550

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Dated: May 10, 2002.

**Nicholas P. Godici,**

*Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.*

[FR Doc. 02-12156 Filed 5-16-02; 8:45 am]

**BILLING CODE 3510-16-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 21 and 74

[WT Docket No. 02-68; RM-9718; FCC 02-101]

### Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS")

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commission has before it an amended petition for rulemaking filed by PetroCom License Corporation ("Petitioner"), requesting that the Commission amend its rules to permit licensing of the MDS and ITFS spectrum in the Gulf of Mexico. The Commission proposes to establish a Basic Trading Area ("BTA")-like area in the Gulf of

Mexico. The Commission's goal in instituting this proceeding is to encourage the most efficient utilization of spectrum.

**DATES:** Comments due June 17, 2002. Reply comments are due August 15, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Shellie Blakeney, (202) 418-1784, Public Safety Private Wireless Division, Wireless Telecommunications Bureau.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico*, WT Docket No. 02-68; RM-9718; FCC 02-101, adopted March 27, 2002 and released May 3, 2002.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 16, 2002. Reply comments are due August 15, 2002. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>.

[/www.fcc.gov/e-file/ecfs.html](http://www.fcc.gov/e-file/ecfs.html).

Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service