

Assistant Secretary pursuant to section 811(h)(4).

Further, the DEA believes that this temporary scheduling action is not a "rule" as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act (RFA). The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, the DEA is not required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been

reviewed by the Office of Management and Budget.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**List of Subjects in 21 CFR Part 1308**

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, the DEA proposes to amend 21 CFR part 1308 as follows:

**PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES**

■ 1. The authority citation for part 1308 continues to read as follows:

**Authority:** 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11, add paragraph (h)(31) to (35) to read as follows: 11, add paragraphs (h)(31) through (35) to read as follows:

**§ 1308.11 Schedule I.**

\* \* \* \* \*

(h) \* \* \*

(31) Naphthalen-1-yl 1-(5-fluoropentyl)-1H-indole-3-carboxylate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: NM2201; CBL2201) .....	(7221)
(32) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-AB-PINACA) .....	(7025)
(33) 1-(4-cyanobutyl)-N-(2-phenylpropan-2-yl)-1H-indazole-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 4-CN-CUMYL-BUTINACA; 4-cyano-CUMYL-BUTINACA; 4-CN-CUMYL BINACA; CUMYL-4CN-BINACA; SGT-78) .....	(7089)
(34) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: MMB-CHMICA, AMB-CHMICA) .....	(7044)
(35) 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3-carboxamide, its optical, positional, and geometric isomers, salts and salts of isomers (Other names: 5F-CUMYL-P7AICA) .....	(7085)

\* \* \* \* \*

Dated: May 23, 2018.

**Robert W. Patterson,**  
Acting Administrator.

[FR Doc. 2018-11531 Filed 5-29-18; 8:45 am]

**BILLING CODE 4410-09-P**

**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**37 CFR Parts 2 and 7**

[Docket No. PTO-T-2017-0004]

RIN 0651-AD15

**Changes to the Trademark Rules of Practice To Mandate Electronic Filing**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (USPTO or Office) proposes to amend the Rules of Practice in Trademark Cases and the Rules of Practice in Filings Pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to mandate electronic filing of trademark applications and submissions associated with trademark applications and registrations, and to require the

designation of an email address for receiving USPTO correspondence. This proposed rule would further advance the USPTO's IT strategy to achieve complete end-to-end electronic processing of trademark-related submissions, thereby improving administrative efficiency by facilitating electronic file management, optimizing workflow processes, and reducing processing errors.

**DATES:** Comments must be received by July 30, 2018 to ensure consideration.

**ADDRESSES:** The USPTO prefers that comments be submitted via electronic mail message to [TMFRNotices@uspto.gov](mailto:TMFRNotices@uspto.gov). Written comments also may be submitted by mail to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451, attention Catherine Cain; by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, VA 22314, attention Catherine Cain; or by electronic mail message via the Federal eRulemaking Portal at <http://www.regulations.gov>. See the Federal eRulemaking Portal website for additional instructions on providing comments via the Federal eRulemaking Portal. All comments submitted directly to the USPTO or provided on the Federal eRulemaking

Portal should include the docket number (PTO-T-2017-0004).

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the internet because the Office may easily share such comments with the public. Electronic comments are preferred to be submitted in plain text, but also may be submitted in portable document format or DOC file format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into portable document format.

The comments will be available for public inspection on the USPTO's website at <http://www.uspto.gov>, on the Federal eRulemaking Portal, and at the Office of the Commissioner for Trademarks, Madison East, Tenth Floor, 600 Dulany Street, Alexandria, VA 22314. Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, by email at [TMPolicy@uspto.gov](mailto:TMPolicy@uspto.gov) or by telephone at (571) 272-8946.

**SUPPLEMENTARY INFORMATION:**

*Purpose:* The USPTO proposes to revise the rules in parts 2 and 7 of title 37 of the Code of Federal Regulations to require electronic filing through the USPTO's Trademark Electronic Application System (TEAS) of all trademark applications based on section 1 and/or section 44 of the Trademark Act (Act), 15 U.S.C. 1051, 1126, and submissions filed with the USPTO concerning applications or registrations. These submissions include responses to Office actions, maintenance declarations, renewal applications, international applications, subsequent designations, and direct filings with the USPTO relating to extensions of protection through the international registration system. In addition, the proposed revisions to the rules would require the designation of an email address for receiving USPTO correspondence concerning these submissions. The requirement to file an initial application through TEAS would not apply to applications based on section 66(a) of the Act, 15 U.S.C. 1141f, because such applications are initially filed with the International Bureau (IB) of the World Intellectual Property Organization and subsequently transmitted to the USPTO. However, section 66(a) applicants and registrants would be required to electronically file all subsequent submissions concerning their applications or registrations and to designate an email address for receiving USPTO correspondence. This rulemaking does not include submissions made to the Trademark Trial and Appeal Board (TTAB) in *ex parte* or *inter partes* proceedings. Such submissions are currently required to be filed through the USPTO's Electronic System for Trademark Trials and Appeals (ESTTA).

This proposed rule is intended to maximize end-to-end electronic processing of applications and related submissions, as well as registration maintenance filings. Achieving complete end-to-end electronic processing of all trademark submissions is a strategic objective of the USPTO. End-to-end electronic processing means that an application and all application- and registration-related submissions are filed and processed electronically, and any related correspondence between the USPTO and the relevant party is conducted entirely electronically. Thus, an application that is processed electronically end to end would be submitted through TEAS, and all submissions related to the application, such as voluntary amendments, responses to Office actions, or allegations of use, would be filed

through TEAS. With this change, outgoing USPTO correspondence regarding the application would be sent by email. Likewise, all submissions related to a registration would be filed through TEAS and outgoing USPTO correspondence regarding the registration would be sent by email communication.

Although more than 99% of applications under section 1 or section 44 are now filed electronically, only about 87% are prosecuted electronically from end to end. This means that approximately 12% of these filings still involve paper processing. Prior reductions in the filing fees for electronic submissions resulted in almost 100% of new applications being filed electronically, but did not completely close the loop on end-to-end electronic communication. The process for submitting responses and other documents is no different from the process for submitting an application. To the extent that several years ago there was a limitation on the file size that the USPTO electronic system could accept, which may have resulted in applicants and registrants submitting large evidentiary files on paper, that issue no longer exists. By mandating electronic filing of trademark applications and submissions concerning applications or registrations through TEAS, the proposed rules are intended to reduce paper processing to an absolute minimum and thus maximize end-to-end electronic processing.

End-to-end electronic processing of all applications, related correspondence, statutorily required registration maintenance submissions, and other submissions will benefit trademark customers and increase the USPTO's administrative efficiency by facilitating electronic file management, optimizing workflow processes, and reducing processing errors. Paper submissions hinder efficiency and accuracy and are more costly to process than electronic submissions because they require manual uploading of scanned copies of the documents into the USPTO electronic records system and manual data entry of information set forth in the documents. Electronic submissions through TEAS, on the other hand, generally do not require manual processing and are automatically categorized, labeled, and uploaded directly into an electronic file wrapper in the USPTO electronic records system for review by USPTO employees and the public. If a TEAS submission contains any amendments to the application or other changes to the information in the record, often those amendments and

changes are automatically entered into the electronic records system. Furthermore, TEAS submissions are more likely to include all necessary information because the USPTO can update its forms to specifically tailor the requirements of a particular submission and require that the information be validated prior to submission. Consequently, preparing and submitting an application or related document through TEAS is likely to result in a more complete submission and take less time than preparing and mailing the paper equivalent. Thus, TEAS submissions expedite processing, shorten application pendency, minimize manual data entry and potential data-entry errors, and eliminate the potential for lost or missing papers.

This proposed rule also requires the designation of an email address for receiving USPTO correspondence concerning these submissions. Currently, in order to receive a filing date for a new application under section 1 or section 44, the USPTO requires, *inter alia*, that the applicant designate "an address for correspondence." 37 CFR 2.21(a)(2). Applicants who file using the TEAS Plus or TEAS Reduced Fee (TEAS RF) options are required to designate an email address for correspondence. Those who file on paper or select the regular TEAS option may designate a postal address to satisfy this requirement. This proposed rule would require applicants and registrants, and parties to a proceeding before the TTAB, to provide and maintain an email address for correspondence. The requirement to designate an email address for receiving USPTO correspondence benefits the USPTO and its customers by reducing costs and increasing efficiency. Email correspondence can be sent, received, and processed faster than paper correspondence, which must be printed, collated, scanned, and uploaded to the electronic records system, and mailed domestically or internationally, at greater expense. Under this proposed rule, applicants and registrants, and parties to a proceeding before the TTAB, would also be required to provide and maintain a postal address, as would their qualified practitioner, if the applicant, registrant, or party is represented. This requirement ensures that the USPTO would always be able to contact the applicant, registrant, party, or practitioner in the event the email correspondence address cannot be used.

TEAS currently provides 58 forms for filing trademark applications and other submissions related to the prosecution of applications and the maintenance of

registrations. As noted above, more than 99% of trademark applications under section 1 and/or section 44 are now filed electronically through TEAS. The entire trademark application prosecution process currently can be conducted electronically, without the need for paper processing, if the applicant files the application and related submissions through TEAS and provides an email address to which the USPTO is authorized to send correspondence regarding the application. If an examining attorney issues an Office action, the USPTO can send an email notice to the applicant or its attorney at the designated email address, stating that an Office action has issued and providing a link to the USPTO's Trademark Status and Document Retrieval (TSDR) system where the Office action may be viewed, downloaded, and printed. The applicant can file a response to the Office action, and any subsequent submissions, through TEAS. The USPTO can also send other notices regarding the status of the application electronically to the designated email address. Once the mark is registered, the mark owner can use TEAS to file post-registration documents and the Office can communicate electronically with the mark owner concerning those submissions.

*Previous Initiatives to Increase End-to-End Electronic Processing:* The USPTO previously amended its rules to encourage electronic filing through TEAS and email communication by establishing the TEAS Plus and TEAS RF filing options for applications that are based on section 1 and/or section 44. See 37 CFR 2.6. These filing options have lower application fees than a regular TEAS application, but, unlike a regular TEAS application, they require the applicant to (1) provide, authorize, and maintain an email address for receiving USPTO correspondence regarding the application and (2) file certain application-related submissions through TEAS. See 37 CFR 2.22, 2.23. If the applicant does not fulfill these requirements, the applicant must pay an additional processing fee. See 37 CFR 2.6, 2.22, 2.23.

Despite these additional requirements, and the potential additional processing fee for noncompliance, the TEAS RF filing option is now the most popular filing option among USPTO customers, followed by TEAS Plus. These two filing options currently account for approximately 97% of all new trademark applications filed under section 1 and/or section 44, suggesting that most applicants are comfortable

with filing and communicating with the USPTO electronically.

Furthermore, in January 2017, the USPTO revised its rules to (1) increase fees for paper filings to bring the fees nearer to the cost of processing the filings and encourage customers to use lower-cost electronic options and (2) require that all submissions to the TTAB be filed through ESTTA. As a result of these rule changes, the USPTO is now processing approximately 87% of applications filed under section 1 and/or section 44 electronically end to end.

*Proposed Rule Changes:*

(1) *New Applications.* Under this proposed rule, § 2.21 would be amended to require applicants to file electronically, through TEAS, any trademark, service mark, certification mark, collective membership mark, or collective trademark or service mark application for registration on the Principal or Supplemental Register under section 1 and/or section 44. As noted above, the requirement to file an application through TEAS would not apply to applications based on section 66(a) because they are initially processed by the IB and subsequently transmitted electronically to the USPTO.

The existing TEAS RF filing option, which currently requires applicants to maintain an email address for receiving USPTO correspondence regarding the application and file the application and related submissions through TEAS, would effectively become the default, or “standard,” filing option and would be renamed “TEAS Standard.” The filing fee for this option would remain \$275 per class. The TEAS Plus option would also remain at \$225 per class, while the TEAS option under 37 CFR 2.6(a)(1)(ii) at \$400 per class would be eliminated. However, the per-class fee of \$400 set forth in § 2.6(a)(1)(ii), which is the current filing fee for applications under section 66(a), would be retained as the filing fee for such applications.

Under this proposed rule, an application filed on paper under section 1 and/or section 44 would be denied a filing date unless it falls under one of the limited exceptions discussed below.

(2) *Processing Fee.* Currently, the additional processing fee under § 2.6(a)(1)(v) applies to TEAS Plus applications that fail to meet the requirements under § 2.22(a) at filing, and applies to both TEAS Plus and TEAS RF applications when certain submissions are not filed through TEAS or when the applicant fails to maintain a valid email address for receipt of communications from the Office. Under this proposed rule, the processing fee would apply only to TEAS Plus

applications that fail to meet the proposed revised requirements under § 2.22(a) at filing. As discussed below, all applicants and registrants, except those specifically exempted, would be required to submit electronically submissions filed in connection with an application or registration and to designate and maintain an email address for correspondence. All applicants and registrants who seek acceptance of a submission filed on paper, pursuant to proposed § 2.147, or a waiver of the requirement to file such submissions electronically, must pay the relevant paper filing fee and the paper petition fee for any submission filed on paper. Because the fees for filing on paper are higher than those for filing electronically, the Office has determined that applicants who seek acceptance of a submission filed on paper or a waiver of the requirement to file electronically should not be further penalized by being required to pay this processing fee.

(3) *Submissions Required to be Filed Through TEAS.* This proposed rule would amend the rules at § 2.23 to also require that correspondence concerning a trademark application or registration under section 1, section 44, or section 66(a) be filed through TEAS, except for correspondence required to be submitted to the Assignment Recordation Branch or through ESTTA. Although all correspondence is required to be filed electronically, the USPTO recognizes that there may be certain instances when a paper filing is necessary. For those instances, the Office also proposes to codify a new regulatory section, at 37 CFR 2.147, which sets out a procedure for requesting acceptance of paper submissions under particular specified circumstances. The proposed section is discussed below in the explanation of the limited exceptions to the proposed requirements.

Although this proposed rule would require that correspondence be filed through TEAS, it would make no such requirement for informal communications. Thus, consistent with current USPTO practice, an applicant or an applicant's attorney may still conduct informal communications with an examining attorney or post registration specialist regarding a particular application or registration by telephone or email. See Trademark Manual of Examining Procedure (TMEP) § 709.05.

(4) *Email Correspondence Address.* This proposed rule would amend §§ 2.21, 2.23, and 7.4 to require that applicants and registrants provide a valid email correspondence address.

Under current USPTO rules and practice, applicants and registrants have a duty to maintain a current and accurate correspondence address, including any designated email address to which the USPTO would send correspondence. 37 CFR 2.18(b); TMEP § 609.03. This proposed rule does not obviate this duty. Thus, except in the case of nationals from exempted treaty countries, as discussed below, the required method of communicating with the USPTO would be via email and the USPTO would send correspondence to the designated email address. If the email transmission were to fail because, for example, the applicant or registrant provided an incorrect email address, the recipient's mailbox is full, or the email provider has a service outage, the USPTO would not attempt to contact the correspondent by other means. Instead, pursuant to proposed § 2.23(d), the applicant or registrant is responsible for monitoring the status of the application or registration using the USPTO's TSDR system, which would display any USPTO Office actions and notices that have issued, any submissions received in the USPTO, and any other actions taken by the USPTO. *See* TMEP § 108.03.

As noted above, applications under section 66(a) are processed and transmitted electronically to the USPTO from the IB. These applications do not include an email address for receiving USPTO correspondence, but would be subject to the proposed requirements to file all submissions electronically and to provide an email address for receipt of correspondence from the USPTO under proposed §§ 2.23(b) and 2.32(a)(2), (4).

**Limited Exceptions for Paper Submissions:** There are some limited circumstances in which the USPTO would permit paper submissions of applications and correspondence, as discussed below. This proposed rule also establishes a process for filing paper submissions in such circumstances.

(1) **International Agreements:** The United States (U.S.) is a member of both the Trademark Law Treaty (TLT) and the subsequent Singapore Treaty on the Law of Trademarks (STLT). TLT and STLT constitute two separate international instruments that may be ratified or acceded to independently by member countries. One provision of TLT mandates that its members accept paper trademark applications and related correspondence from nationals of other TLT members. STLT, on the other hand, allows its members to choose the means of transmittal of communications, whether on paper, in electronic form, or in any other form.

This incongruity between the treaties was addressed in Article 27(2) of STLT, which provides that any Contracting Party to both STLT and TLT shall continue to apply TLT in its relation with Contracting Parties to TLT that are not parties to STLT. Accordingly, nationals of TLT members that are not also members of STLT at the time of submission of the relevant document to the USPTO would not be required to file electronically or receive communications from the Office via email, nor would they be required to submit a petition with a paper filing, until such time as their country joins STLT. Currently, the countries whose nationals the Office must accept paper trademark applications and related correspondence from are: Bahrain, Bosnia and Herzegovina, Burkina Faso, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Dominican Republic, Egypt, El Salvador, Guatemala, Guinea, Honduras, Hungary, Indonesia, Monaco, Montenegro, Morocco, Nicaragua, Oman, Panama, Peru, Slovenia, Sri Lanka, Trinidad and Tobago, Turkey, and Uzbekistan.

(2) **Specimens for Scent, Flavor, or Other Non-Traditional Marks:** This proposed rule would allow for the separate submission of physical specimens when it is not possible to submit the specimen through TEAS because of the nature of the mark. For example, if the application or registration is for a scent or flavor mark, because the required specimen must show use, or continued use, of the flavor or scent, it cannot be uploaded electronically. In that situation, the applicant may submit the application through TEAS and indicate that it is mailing the specimen to the USPTO. In these circumstances, all other requirements of this proposed rule would still apply. However, the applicant or registrant would not be required to submit a petition requesting acceptance of a specimen filed on paper or waiver of the requirement to file the specimen electronically. This exception does not apply to specimens for sound marks, which can be attached to the TEAS form as an electronic file.

(3) **Petition to Accept a Paper Submission:** The USPTO herein proposes a new regulatory section entitled "Petition to the Director to accept a paper submission," which would be codified at § 2.147. Pursuant to this proposed section, an applicant or registrant may file a petition to the Director requesting acceptance of a submission filed on paper in three situations.

Under proposed § 2.147(a), the petition may be submitted if TEAS is

unavailable on the date of the deadline for the submission specified in a regulation in parts 2 or 7 of this chapter or in a section of the Act. Under this provision, the applicant or registrant would be required to submit proof that TEAS was unavailable because a technical problem, on either the USPTO's part or the user's part, prevented the user from submitting the document electronically. Generally, if a user receives an error message the first time they attempt to submit a filing electronically, the Office expects that he or she will try to ascertain and resolve failures due to user error. In situations where the inability to submit the filing was not due to user error, the Office would encourage a user to make another attempt to submit the document electronically before resorting to the paper petition process.

The second scenario applies to a document identified in proposed § 2.147(b) that was timely submitted on paper, but not examined by the Office because it was not submitted electronically in accordance with proposed § 2.21(a) or § 2.23(a). The Office would notify the applicant, registrant, or party to a proceeding before the TTAB that the document was not examined and must be resubmitted electronically. The applicant, registrant, or party may request that the timely filed paper submission be accepted only if the applicant, registrant, or party is unable to timely resubmit the document electronically by the statutory deadline.

Finally, under proposed § 2.147(c), when an applicant or registrant does not meet the requirements under proposed § 2.147(a) or (b) for requesting acceptance of the paper submission, the applicant or registrant may petition the Director under § 2.146(a)(5), requesting a waiver of § 2.21(a) or § 2.23(a) and documenting the nature of the extraordinary situation that prevented the party from submitting the correspondence electronically. Because the assessment of what would qualify as an extraordinary situation depends on the specific facts, the Office would address particular situations on a case-by-case basis.

The Office intends to continue the approach it has employed in the past when USPTO technical problems rendered TEAS unavailable. For example, when verifiable issues with USPTO systems prevented electronic filing for extended periods, the Office has waived non-statutory deadlines on petition, such as the deadline for response to a post-registration Office action, as well as petition fees. Such measures help avoid negatively impacting applicants and registrants in

the event of USPTO technical problems. Because the impact of technical problems varies depending on the specific facts, the Office cannot provide advance guidance about all possibilities or specific measures the USPTO may take in the future. Moreover, applicants and registrants must be mindful of the fact that statutory deadlines, such as those for submission of a statement of use or an affidavit or declaration of use under section 8 or section 71, cannot be waived. The USPTO strongly encourages applicants and registrants to ensure that they are able to timely submit the relevant document by mail in the event of an unexpected technical problem to avoid missing a statutory deadline.

Note that the inability to submit an application or submission electronically due to regularly scheduled system maintenance does not qualify for relief under proposed § 2.147 or as an extraordinary situation under § 2.146. The USPTO routinely performs system maintenance between midnight and 5:30 a.m. Eastern Time on weeknights and at all hours on Saturdays, Sundays, and holidays. Advance notice of the maintenance is generally posted on the USPTO Systems Status and Availability page on the USPTO website.

(4) Postal-service Interruptions or Emergencies. The Office intends to continue the approach it has employed when there has been a postal-service interruption or emergency related to a natural disaster. In such events, the Office has generally waived certain requirements of the rules, such as non-statutory deadlines and petition fees. The Office also issues notices regarding the specific procedures to be followed in such circumstances and posts the notices on the "Operating Status" page of the USPTO website.

*Requirements for Paper Submissions:* Because paper submissions would be permitted in the limited circumstances described above, the current rules addressing the requirements for paper submissions would be retained and modified, as necessary, for consistency with the other revisions in this proposed rule. In addition, the current rules governing the certificate-of-mailing and Priority Mail Express® procedures, 37 CFR 2.197 and 2.198, limit the applicability of these procedures to certain types of trademark submissions. This proposed rule would remove these limitations, making filing with a certificate of mailing or via Priority Mail Express® available for all submissions, including new applications, on the rare occasions when filing on paper would be permitted. This proposed rule would

also simplify how the filing date of a submission utilizing these procedures is determined. Streamlining the requirements for filing with a certificate of mailing or via Priority Mail Express® would provide greater clarity to parties who seek to utilize these procedures and make the rules easier to administer for the Office. Although the certificate-of-mailing and Priority Mail Express® procedures would be retained, facsimile transmissions, which are currently permitted for certain types of trademark correspondence, would not be permitted for any applications or submissions under this proposed rule.

#### Discussion of Proposed Regulatory Changes

The USPTO proposes to amend § 2.2 to revise paragraph (e) to include the abbreviation "USPTO" and paragraphs (f) and (g) to indicate that the definitions of TEAS and ESTTA include all related electronic systems required to complete an electronic submission through each and to delete the URLs. The USPTO also proposes to add: § 2.2(o), defining ETAS; § 2.2(p), defining "Eastern Time;" § 2.2(q), defining "electronic submission;" and § 2.2(r) defining "USPS."

The USPTO proposes to amend § 2.6 to clarify that § 2.6(a)(1)(ii) applies to applications filed under section 66(a) of the Act. The USPTO also proposes to change the wording "Reduced Fee (RF)" to "Standard" and delete the reference to § 2.23 in § 2.6(a)(1)(iii), to reword § 2.6(a)(1)(iv) for clarity, and to delete the reference to § 2.23(c) in § 2.6(a)(1)(iv).

The USPTO proposes to delete the wording "and attorney" and the reference to TEAS in current § 2.17(d)(1), because it is unnecessary in view of proposed § 2.23(a), and to delete paragraph (d)(2) as unnecessary as a result of updates to the electronic form for filing a power of attorney.

The USPTO proposes to add introductory text to § 2.18(a) indicating that the following paragraphs set out the procedures by which the Office would determine the address to which correspondence would be sent. The USPTO proposes to revise § 2.18(a)(1) to define when the Office will send correspondence to the applicant, registrant, or party to a proceeding and § 2.18(a)(2) to define when the Office will send correspondence to a qualified practitioner. The USPTO also proposes to delete current paragraphs (a)(3)–(a)(5), to redesignate current § 2.18(a)(6) as § 2.18(b) and reword for clarity, and to delete current paragraph (a)(7) and incorporate the text into proposed § 2.18(a)(2). The USPTO proposes to

redesignate current § 2.18(b) as § 2.18(c) and to incorporate and clarify the requirements in current § 2.18(b)(1)–(4), which would be deleted. The USPTO proposes to redesignate current § 2.18(c)(1) as § 2.18(d), to delete the second and third sentences in current § 2.18(c)(1), to clarify that the Office will change the address if a new address is provided, to add a cross reference to proposed § 2.18(a), and to delete current § 2.18(c)(2).

The USPTO proposes to amend § 2.21(a) to require that applications under section 1 or section 44 be filed through TEAS, to require the postal and email addresses for each applicant, and if the applicant is represented by a qualified practitioner, to require the postal and email addresses for the practitioner. The USPTO proposes to reword § 2.21(a)(5) for clarity, to reword § 2.21(b) and include a reference to proposed § 2.21(c), which sets out an exemption for certain countries.

The USPTO proposes to amend § 2.22(a) to specify that TEAS Plus applications must satisfy the requirements of § 2.21, to delete current paragraphs (a)(1), (a)(5), and (a)(6) and renumber the remaining paragraphs, to correct the cross reference in redesignated paragraph (a)(7) to § 2.6(a)(1)(iv), to delete the first sentence and the reference to a particular format in redesignated paragraph (a)(9), and to delete the URL in redesignated paragraph (a)(10). The USPTO proposes to revise § 2.22(b) to indicate that the applicant must comply with proposed § 2.23(a) and (b), to delete § 2.22(b)(1) and (b)(2), and to delete the second sentence in § 2.22(c).

The USPTO proposes to amend the title of § 2.23 to "Requirements to correspond electronically with the Office and duty to monitor status" and to delete the current text of the section. The USPTO proposes to revise § 2.23(a) to require that, unless stated otherwise, all trademark correspondence be filed through TEAS, to revise § 2.23(b) to require that applicants, registrants, and parties to a proceeding maintain a valid email correspondence address, to revise current § 2.23(c) to set out an exemption for nationals of a country that has acceded to the Trademark Law Treaty, but not to the Singapore Treaty on the Law of Trademarks, and to add § 2.23(d) to require applicants and registrants to monitor the status of their applications and registrations.

The USPTO proposes to amend § 2.24(a) to clarify that only an applicant or registrant that is not domiciled in the U.S. may designate a domestic representative. The USPTO proposes to delete § 2.24(a)(1)(i), to redesignate

§ 2.24(a)(1)(ii) as § 2.24(b) and require an email and postal address for a designated domestic representative, and to delete § 2.24(a)(2). The USPTO proposes to redesignate § 2.24(a)(3) as § 2.24(c) and reword for clarity, and to delete current § 2.24(b).

The USPTO proposes to amend § 2.32(a)(2) to include a requirement for the postal and email addresses of each applicant, unless the applicant or registrant is a national of a country that has acceded to the Trademark Law Treaty, but not to the Singapore Treaty on the Law of Trademarks. The USPTO also proposes to amend § 2.32(a)(4) to delete the current wording and require the name, postal address, and email address of an applicant's qualified practitioner. The USPTO proposes to amend § 2.32(d) to add the word "the" before "fee."

The USPTO proposes to reword § 2.56(a) slightly for clarity, to amend § 2.56(d) to set out the requirements for submitting a specimen through TEAS, to revise current § 2.56(d)(1) and (2) to set out the exceptions to the proposed requirements, and to delete § 2.56(d)(3) and (4).

The USPTO proposes to amend the title of § 2.62 to "Procedure for submitting response," to revise § 2.62(a) slightly for clarity, to revise § 2.62(c) for consistency with proposed § 2.23, and to add that responses filed via facsimile will not be accorded a date of receipt.

The USPTO proposes to amend § 2.111(c)(2) for consistency with proposed § 2.147(b).

The USPTO proposes to amend § 2.146(a) to add the words "in a trademark case" and to revise § 2.146(a)(2) and (4) to specify that the regulation applies to "parts 2, 3, 6, and 7" of Title 37.

The USPTO proposes to add § 2.147 to set out the requirements for submitting a petition requesting acceptance of a paper submission.

The USPTO proposes to amend § 2.148 to clarify that it applies to "parts 2, 3, 6, and 7 of this chapter."

The USPTO proposes to amend § 2.151 to indicate that the certificate of registration will issue to the owner, to reword the second and third sentences for clarity, and to change the wording "accompany" in the last sentence to "issue with."

The USPTO proposes to amend § 2.162 to change the word "includes" to "issues with the certificate" for consistency with proposed § 2.151.

The USPTO proposes to amend § 2.190(a) to clarify that the paragraph refers to paper documents and that the stated mailing address should be used when trademark documents are

permitted to be filed by mail. The USPTO proposes to amend § 2.190(b) to state that trademark documents filed electronically must be submitted through TEAS and that documents related to TTAB proceedings must be filed through ESTTA, and to delete the URLs. The USPTO proposes to reword § 2.190(c) for clarity and to delete the mailing address and URL. The USPTO proposes to add "certified" to the title of § 2.190(d) and to delete the first sentence and the wording "or uncertified" in the second sentence. The USPTO proposes to correct the mailing address in § 2.190(e).

The USPTO proposes to amend the title of § 2.191 to "Action of the Office based on the written record" and to revise the section to state that all business must be recorded in writing, to reword for clarity, and to delete the last sentence.

The USPTO proposes to amend § 2.193(a)(2) and (b) to delete wording regarding submission of a photocopy or facsimile or by facsimile transmission. The USPTO proposes to amend § 2.193(c)(1) to change the wording "he or she" to "the signer," and to revise § 2.193(d) to require submission of the first and last name and the title or position of the signatory and to delete the wording "in printed or typed form" and the wording after "the signature." The USPTO proposes to amend the introductory text of § 2.193(e) to clarify that documents must be signed as specified in paragraphs (e)(1)–(10). The USPTO proposes to delete the term "paper" in § 2.193(e)(10), to reword § 2.193(g)(1) for clarity, and to change "correspondence" to "documents" and delete the last sentence in § 2.193(g)(2).

The USPTO proposes to amend the title of § 2.195 to "Filing date of trademark correspondence." The USPTO proposes to delete current § 2.195(a)–(d) and to set out the procedures for determining the filing date of electronic and paper submissions in proposed § 2.195(a) and (b)(1) through (b)(2), to indicate when the Office is closed in proposed § 2.195(b)(3), to indicate that email and facsimile transmissions are not permitted in proposed § 2.195(c), and to redesignate current § 2.195(e) as § 2.195(d)(1)–(3) and delete current § 2.195(e)(3).

The USPTO proposes to amend the title of § 2.197 to "Certificate of mailing." The USPTO proposes to delete current § 2.197(a)–(c) and to set out the requirements for obtaining a filing date based on a certificate of mailing in proposed § 2.197(a), the procedure when correspondence is mailed in accordance with paragraph (a)

of this section but not received by the Office in proposed § 2.197(b), and the filing date when the certificate of mailing does not meet the requirements in proposed § 2.197(c).

The USPTO proposes to delete current § 2.198(a)–(f) and to clarify the filing date of correspondence submitted under this section in proposed § 2.198(a) and (b) and the procedures when there is a discrepancy, error, or non-receipt in proposed § 2.198(c)–(e).

The USPTO proposes to amend § 7.1(c) to indicate that the definition of TEAS includes all related electronic systems required to complete an electronic submission through TEAS and to delete a URL. The USPTO proposes to amend § 7.1(d) to add "or the abbreviation *USPTO*" and § 7.1(f) to add cross references to proposed § 2.2(p)–(r).

The USPTO proposes to amend the title of § 7.4 to "International applications and registrations originating from the USPTO—Requirements to electronically file and communicate with the Office." The USPTO proposes to amend § 7.4(a) to specify that all correspondence relating to international applications and registrations originating from the USPTO must be submitted through TEAS and include a valid email correspondence address. The USPTO proposes to amend § 7.4(b) to require that applicants and registrants maintain a valid email correspondence address and to delete current paragraphs (b)(1) and (b)(2). The USPTO proposes to amend § 7.4(c) to set out an exemption for nationals of a country that has acceded to the Trademark Law Treaty, but not to the Singapore Treaty on the Law of Trademarks and § 7.4(d) to set out the procedure if TEAS is unavailable or when there is an extraordinary situation, and to delete paragraphs (d)(1)–(d)(6). The USPTO also proposes to delete § 7.4(e).

The USPTO proposes to amend § 7.11(a) to delete the word "either," to add a cross reference to § 7.4(a), and to specify that the Office will grant a date of receipt to an international application typed on the official paper form issued by the International Bureau if a paper submission is permitted under § 7.4(c) or accepted on petition pursuant to § 7.4(d). The USPTO also proposes to delete § 7.11(a)(12).

The USPTO proposes to amend § 7.21(b) to delete the word "either," to add a cross reference to § 7.4(a), and to specify that the Office will grant a date of receipt to a subsequent designation typed on the official paper form issued by the International Bureau if a paper submission is permitted under § 7.4(c)

or accepted on petition pursuant to § 7.4(d). The USPTO also proposes to delete § 7.21(b)(9).

The USPTO proposes to revise § 7.25 to delete the reference to § 2.23 and replace it with a reference to § 2.22 and to add a cross reference to § 2.198.

## Rulemaking Requirements

### A. Administrative Procedure Act

The changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. See *Perez v. Mortg. Bankers Ass'n*, 135 S. Ct. 1199, 1204 (2015) (Interpretive rules “advise the public of the agency’s construction of the statutes and rules which it administers.” (citation and internal quotation marks omitted)); *Nat’l Org. of Veterans’ Advocates v. Sec’y of Veterans Affairs*, 260 F.3d 1365, 1375 (Fed. Cir. 2001) (Rule that clarifies interpretation of a statute is interpretive.); *Bachow Commc’ns Inc. v. FCC*, 237 F.3d 683, 690 (D.C. Cir. 2001) (Rules governing an application process are procedural under the Administrative Procedure Act.); *Inova Alexandria Hosp. v. Shalala*, 244 F.3d 342, 350 (4th Cir. 2001) (Rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims.).

Accordingly, prior notice and opportunity for public comment for the changes in this rulemaking are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. See *Perez*, 135 S. Ct. at 1206 (Notice-and-comment procedures are required neither when an agency “issue[s] an initial interpretive rule” nor “when it amends or repeals that interpretive rule.”); *Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice” (quoting 5 U.S.C. 553(b)(A))). However, the Office has chosen to seek public comment before implementing the rule to benefit from the public’s input.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish a notice of proposed rulemaking (NPRM), the agency must prepare and make available for public comment an Initial Regulatory Flexibility Analysis, unless the agency certifies under 5 U.S.C. 605(b) that the proposed rule, if implemented, will not have a significant

economic impact on a substantial number of small entities. 5 U.S.C. 603, 605.

For the reasons set forth herein, the Senior Counsel for Regulatory and Legislative Affairs of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b).

This proposed rule would amend the regulations to require that applications filed under section 1 or section 44 of the Trademark Act (Act), 15 U.S.C. 1051, 1126, and all submissions regarding an application or registration under section 1, section 44 and section 66(a), be filed electronically. The proposed rule will also require that applicants and registrants maintain a valid email correspondence address and continue to receive communications from the Office by email. The proposed rule will apply to all applicants and registrants unless acceptance of a submission filed on paper or a waiver of the proposed requirements is granted on petition, the applicant/registrant is a national of a country to which the requirements will not apply, or the requirement to file electronically is otherwise excepted, as for certain types of specimens. Applicants for a trademark are not industry specific and may consist of individuals, small businesses, non-profit organizations, and large corporations. The USPTO does not collect or maintain statistics on small-versus large-entity applicants, and this information would be required in order to determine the number of small entities that would be affected by the proposed rule.

The burdens to all entities, including small entities, imposed by these rule changes will be minor procedural requirements on parties submitting applications or documents and communications in connection with an application or registration. The vast majority of users already file and prosecute applications electronically in response to previous initiatives to increase end-to-end electronic processing. For example, the USPTO amended its rules to encourage electronic filing through TEAS and email communication by establishing the TEAS Plus and TEAS RF filing options for applications that are based on section 1 and/or section 44. See 37 CFR 2.6. These filing options have lower application fees than a regular TEAS application, but they require the applicant to (1) provide, authorize, and maintain an email address for receiving

USPTO correspondence regarding the application and (2) file certain application-related submissions through TEAS. See 37 CFR 2.22, 2.23. If the applicant does not fulfill these requirements, the applicant must pay an additional processing fee. See 37 CFR 2.6, 2.22, 2.23. Despite these additional requirements, and the potential additional processing fee for noncompliance, the TEAS RF filing option is now the most popular filing option among USPTO customers, followed by TEAS Plus. These two filing options currently account for approximately 97% of all trademark applications filed under section 1 and/or section 44, and more than 99% of trademark applications under section 1 and/or section 44 in total are now filed electronically through TEAS, suggesting that most applicants are comfortable with filing and communicating with the USPTO electronically.

Furthermore, in January 2017, the USPTO revised its rules to (1) increase fees for paper filings to bring the fees nearer to the cost of processing the filings and encourage customers to use lower-cost electronic options and (2) require that all submissions to the TTAB be filed through ESTTA. As a result of these rule changes, the USPTO is now processing approximately 87% of applications filed under section 1 and/or section 44 electronically end to end.

The proposed changes do not impose any additional economic burden unless the applicant or registrant fails to file electronically. In such cases, the economic burden to the applicant or registrant would be the higher paper fee for the submission (if a fee is required) and the fee for the petition seeking acceptance of a submission filed on paper or a waiver of the requirement to file electronically. However, as mentioned above, since the vast majority of current users already file and prosecute applications electronically, the economic impact of filing on paper is expected to be small. Moreover, this proposed rule will lead to a greater adoption of lower filing-fee options and therefore outweigh any cost burdens and likely save applicants and registrants money. For these reasons, this rule is not expected to have a significant economic impact on a substantial number of small entities.

### C. Executive Order 12866 (Regulatory Planning and Review)

This rulemaking has been determined to be not significant for purposes of Executive Order 12866.

*D. Executive Order 13563 (Improving Regulation and Regulatory Review)*

The Office has complied with Executive Order 13563. Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector and the public as a whole, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

*E. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs)*

This proposed rule is not expected to be an Executive Order 13771 regulatory action because this proposed rule is not significant under Executive Order 12866.

*F. Executive Order 13132 (Federalism)*

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

*G. Executive Order 13175 (Tribal Consultation)*

This rulemaking will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

*H. Executive Order 13211 (Energy Effects)*

This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

*I. Executive Order 12988 (Civil Justice Reform)*

This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

*J. Executive Order 13045 (Protection of Children)*

This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

*K. Executive Order 12630 (Taking of Private Property)*

This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

*L. Congressional Review Act*

Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this notice are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this notice is not expected to result in a "major rule" as defined in 5 U.S.C. 804(2).

*M. Unfunded Mandates Reform Act of 1995*

The changes set forth in this notice do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

*N. National Environmental Policy Act*

This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

*O. National Technology Transfer and Advancement Act*

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

*P. Paperwork Reduction Act*

This rulemaking involves information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this rule has been reviewed and previously approved by OMB under control numbers 0651-0009, 0651-0050, 0651-0051, 0651-0054, 0651-0055, 0651-0056, and 0651-0061.

You may send comments regarding the collections of information associated with this rule, including suggestions for reducing the burden, to (1) The Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street NW, Washington, DC 20503, Attention: Nicholas A. Fraser, the Desk Officer for the United States Patent and Trademark Office; and (2) The Commissioner for Trademarks, by mail to P.O. Box 1451, Alexandria, VA 22313-1451, attention Catherine Cain; by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, VA 22314, attention Catherine Cain; or by electronic mail message via the Federal eRulemaking Portal. All comments submitted directly to the USPTO or provided on the Federal eRulemaking Portal should include the docket number (PTO-T-2017-0004).

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***37 CFR Part 2*

Administrative practice and procedure, Trademarks.

*37 CFR Part 7*

Administrative practice and procedure, International registration, Trademarks.

For the reasons stated in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office proposes to amend parts 2 and 7 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. 1113, 15 U.S.C. 1123, 35 U.S.C. 2, Section 10 of Pub. L. 112–29, unless otherwise noted.

■ 2. Amend § 2.2 by revising paragraphs (e), (f), and (g) and by adding paragraphs (o) through (r) to read as follows:

**§ 2.2 Definitions.**

\* \* \* \* \*

(e) The term *Office* or abbreviation *USPTO* means the United States Patent and Trademark Office.

(f) The acronym *TEAS* means the Trademark Electronic Application System and, as used in this part, includes all related electronic systems required to complete an electronic submission through TEAS.

(g) The acronym *ESTTA* means the Electronic System for Trademark Trials and Appeals and, as used in this part, includes all related electronic systems required to complete an electronic submission through ESTTA.

\* \* \* \* \*

(o) The acronym *ETAS* means the Electronic Trademark Assignment System and, as used in this part, includes all related electronic systems required to complete an electronic submission through ETAS.

(p) *Eastern Time* means Eastern Standard Time or Eastern Daylight Time, as appropriate.

(q) The term *electronic submission* as used in this part refers to any submission made through an electronic filing system available on the Office's website, but not through email or facsimile transmission.

(r) The abbreviation *USPS* as used in this part means the U.S. Postal Service.

■ 3. Amend § 2.6 by revising paragraphs (a)(1)(ii) through (v) to read as follows:

**§ 2.6 Trademark fees.**

(a) \* \* \*

(1) \* \* \*

(ii) For filing an application under section 66(a) of the Act, per class—\$400.00

(iii) For filing a TEAS Standard application, per class—\$275.00

(iv) For filing a TEAS Plus application under § 2.22, per class—\$225.00

(v) Additional processing fee under § 2.22(c), per class—\$125.00

\* \* \* \* \*

■ 4. Amend § 2.17 by revising paragraph (d) to read as follows:

**§ 2.17 Recognition for representation.**

\* \* \* \* \*

(d) *Power of attorney relating to multiple applications or registrations.*

The owner of an application or registration may appoint a practitioner(s) qualified to practice under § 11.14 of this chapter to represent the owner for all existing applications or registrations that have the identical owner name.

\* \* \* \* \*

■ 5. Revise § 2.18 to read as follows:

**§ 2.18 Correspondence, with whom held.**

(a) *Establishing the correspondence address.* The Office will send correspondence as follows:

(1) If the applicant, registrant, or party to a proceeding is not represented by a practitioner qualified to practice before the Office under § 11.14 of this chapter, the Office will send correspondence to the applicant, registrant, or party to the proceeding.

(2) If a power of attorney that meets the requirements of § 2.17(c) is filed, the Office will send correspondence to the qualified practitioner designated in the power. Or, if, pursuant to § 2.17(b)(1)(ii) or (g), a practitioner qualified under § 11.14 of this chapter submits a document(s) on behalf of an applicant, registrant, or party to a proceeding who is not already represented by another qualified practitioner from a different firm, the Office will send correspondence to the practitioner submitting the documents. Once the Office has recognized a practitioner qualified under § 11.14 of this chapter as the representative of the applicant, registrant, or party to a proceeding, the Office will communicate and conduct business only with that practitioner, or with another qualified practitioner from the same firm. A request to change the correspondence address does not revoke a power of attorney. Except for service of a cancellation petition, the Office will not conduct business directly with the applicant, registrant, or a party to a proceeding, or with another practitioner from a different firm, unless:

(i) The applicant or registrant files a revocation of the power of attorney

under § 2.19(a) and/or a new power of attorney that meets the requirements of § 2.17(c); or

(ii) The practitioner has been suspended or excluded from practicing in trademark matters before the USPTO.

(b) *Ex parte matters.* Only one correspondence address may be designated in an ex parte matter.

(c) *Changing the owner and correspondence addresses.* The applicant, registrant, or party to a proceeding must maintain current and accurate postal and email addresses for itself and its qualified practitioner, if one is designated. If any of these addresses change, a request to change the address, signed in accordance with § 2.193(e)(9), must be promptly filed.

(d) *Post registration filings under sections 7, 8, 9, 12(c), 15, and 71.* Even if there is no new power of attorney or written request to change the correspondence address, the Office will change the correspondence address upon the examination of an affidavit under section 8, 12(c), 15, or 71 of the Trademark Act, renewal application under section 9 of the Act, or request for amendment or correction under section 7 of the Act, if a new address is provided, in accordance with paragraph (a) of this section.

■ 6. Revise § 2.21 to read as follows:

**§ 2.21 Requirements for receiving a filing date.**

(a) The Office will grant a filing date to an application under section 1 or section 44 of the Act that is filed through TEAS, is written in the English language, and contains all of the following:

- (1) The name, postal address, and email address of each applicant;
- (2) If the applicant is represented by a practitioner qualified under § 11.14 of this chapter, the practitioner's name, postal address, and email address;
- (3) A clear drawing of the mark;
- (4) A listing of the goods or services; and
- (5) The filing fee required under § 2.6 for at least one class of goods or services.

(b) If the applicant does not satisfy all the elements required in paragraph (a) of this section, the Office will deny a filing date to the application unless the applicant meets the requirements of paragraph (c) of this section.

(c) If the applicant is a national of a country that has acceded to the Trademark Law Treaty, but not to the Singapore Treaty on the Law of Trademarks, the requirements of paragraph (a) of this section to file through TEAS and provide an email address do not apply.

■ 7. Revise § 2.22 to read as follows:

**§ 2.22 Requirements for a TEAS Plus application.**

(a) A trademark/service mark application for registration on the Principal Register under section 1 and/or section 44 of the Act that meets the requirements for a filing date under § 2.21 will be entitled to a reduced filing fee under § 2.6(a)(1)(iv) if it includes:

(1) The applicant's legal entity;

(2) The citizenship of each individual applicant, or the state or country of incorporation or organization of each juristic applicant;

(3) If the applicant is a partnership, the names and citizenship of the applicant's general partners;

(4) One or more bases for filing that satisfy all the requirements of § 2.34. If more than one basis is set forth, the applicant must comply with the requirements of § 2.34 for each asserted basis;

(5) Correctly classified goods and/or services, with an identification of goods and/or services from the Office's Acceptable Identification of Goods and Services Manual, available through the TEAS Plus form. In an application based on section 44 of the Act, the scope of the goods and/or services covered by the section 44 basis may not exceed the scope of the goods and/or services in the foreign application or registration;

(6) If the application contains goods and/or services in more than one class, compliance with § 2.86;

(7) A filing fee for each class of goods and/or services, as required by § 2.6(a)(1)(iv);

(8) A verified statement that meets the requirements of § 2.33, dated and signed by a person properly authorized to sign on behalf of the owner pursuant to § 2.193(e)(1);

(9) If the applicant does not claim standard characters, the applicant must attach a digitized image of the mark. If the mark includes color, the drawing must show the mark in color;

(10) If the mark is in standard characters, a mark comprised only of characters in the Office's standard character set, typed in the appropriate field of the TEAS Plus form;

(11) If the mark includes color, a statement naming the color(s) and describing where the color(s) appears on the mark, and a claim that the color(s) is a feature of the mark;

(12) If the mark is not in standard characters, a description of the mark;

(13) If the mark includes non-English wording, an English translation of that wording;

(14) If the mark includes non-Latin characters, a transliteration of those characters;

(15) If the mark includes an individual's name or portrait, either:

(i) A statement that identifies the living individual whose name or likeness the mark comprises and written consent of the individual; or

(ii) A statement that the name or portrait does not identify a living individual (*see* section 2(c) of the Act).

(16) If the applicant owns one or more registrations for the same mark, and the owner(s) last listed in Office records of the prior registration(s) for the same mark differs from the owner(s) listed in the application, a claim of ownership of the registration(s) identified by the registration number(s), pursuant to § 2.36; and

(17) If the application is a concurrent use application, compliance with § 2.42.

(b) In addition to the filing requirements under paragraph (a) of this section, the applicant must comply with § 2.23(a) and (b).

(c) If an application does not fulfill the requirements of paragraph (a) of this section, the applicant must pay the processing fee required by § 2.6(a)(1)(v).

(d) The following types of applications cannot be filed as TEAS Plus applications:

(1) Applications for certification marks (*see* § 2.45);

(2) Applications for collective trademarks and service marks (*see* § 2.44);

(3) Applications for collective membership marks (*see* § 2.44); and

(4) Applications for registration on the Supplemental Register (*see* § 2.47).

■ 8. Revise § 2.23 to read as follows:

**§ 2.23 Requirements to correspond electronically with the Office and duty to monitor status.**

(a) Unless stated otherwise in this chapter, all trademark correspondence must be submitted through TEAS.

(b) Applicants, registrants, and parties to a proceeding must provide and maintain a valid email address for correspondence.

(c) If the applicant or registrant is a national of a country that has acceded to the Trademark Law Treaty, but not to the Singapore Treaty on the Law of Trademarks, the requirements of paragraphs (a) and (b) of this section do not apply.

(d) Notices issued or actions taken by the USPTO are displayed in the USPTO's electronic systems. Applicants and registrants are responsible for monitoring the status of their applications and registrations in the USPTO's electronic systems during the following time periods:

(1) At least every six months between the filing date of the application and issuance of a registration; and

(2) After filing an affidavit of use or excusable nonuse under section 8 or section 71 of the Trademark Act, or a renewal application under section 9 of the Act, at least every six months until the registrant receives notice that the affidavit or renewal application has been accepted.

■ 9. Revise § 2.24 to read as follows:

**§ 2.24 Designation and revocation of domestic representative by foreign applicant.**

(a) An applicant or registrant that is not domiciled in the United States may designate a domestic representative (*i.e.*, a person residing in the United States on whom notices or process in proceedings affecting the mark may be served).

(b) The designation, or a request to change or revoke a designation, must set forth the name, email address, and postal address of the domestic representative and be signed pursuant to § 2.193(e)(8).

(c) The mere designation of a domestic representative does not authorize the person designated to represent the applicant or registrant.

■ 10. Amend § 2.32 by revising paragraphs (a)(2) and (4) and (d) to read as follows:

**§ 2.32 Requirements for a complete trademark or service mark application.**

(a) \* \* \*

(2) The name, postal address, and email address of each applicant. If the applicant or registrant is a national of a country that has acceded to the Trademark Law Treaty, but not to the Singapore Treaty on the Law of Trademarks, the requirement to provide an email address does not apply;

\* \* \* \* \*

(4) If the applicant is represented by a practitioner qualified under § 11.14 of this chapter, the practitioner's name, postal address, and email address;

\* \* \* \* \*

(d) The application must include the fee required by § 2.6 for each class of goods or services.

\* \* \* \* \*

■ 11. Amend § 2.56 by revising paragraphs (a) and (d) to read as follows:

**§ 2.56 Specimens.**

(a) An application under section 1(a) of the Act, an amendment to allege use under § 2.76, or a statement of use under § 2.88 must include one specimen per class showing the mark as used on or in connection with the goods or services identified. When requested by the Office as reasonably necessary to proper

examination, additional specimens must be provided.

\* \* \* \* \*

(d) The specimen must be submitted through TEAS in a file format designated as acceptable by the Office, unless:

(1) The mark consists of a scent, flavor, or similar non-traditional mark type, in which case the specimen may be mailed to the Office, pursuant to § 2.190(a), without resort to the procedures set forth in § 2.147; or

(2) Submission on paper is permitted under § 2.23(c) or is accepted on petition pursuant to § 2.147.

■ 12. Revise § 2.62 to read as follows:

**§ 2.62 Procedure for submitting response.**

(a) *Deadline.* The applicant's response to an Office action must be received by the USPTO within six months from the issue date.

(b) *Signature.* The response must be signed by the applicant, someone with legal authority to bind the applicant (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(c) *Form.* Pursuant to § 2.23(a), responses must be submitted through TEAS. Responses sent via email or facsimile will not be accorded a date of receipt.

■ 13. Amend § 2.111 by revising paragraph (c)(2) to read as follows:

**§ 2.111 Filing petition for cancellation.**

\* \* \* \* \*

(c) \* \* \*

(2)(i) In the event that ESTTA is unavailable due to technical problems, or when extraordinary circumstances are present, a petition to cancel may be filed in paper form. A paper petition to cancel a registration must be accompanied by a Petition to the Director under § 2.146, with the fees therefor and the showing required under this paragraph (c). Timeliness of the paper submission, if relevant to a ground asserted in the petition to cancel, will be determined in accordance with §§ 2.195 through 2.198.

(ii) For a petition to cancel a registration on the fifth year anniversary of the date of registration of the mark, a petitioner for cancellation who meets the requirements of § 2.147(b) may submit a petition to the Director to accept a timely filed paper petition to cancel.

\* \* \* \* \*

■ 14. Amend § 2.146 by revising paragraph (a) to read as follows:

**§ 2.146 Petitions to the Director.**

(a) Petition may be taken to the Director in a trademark case:

(1) From any repeated or final formal requirement of the examiner in the ex parte prosecution of an application if permitted by § 2.63(a) and (b);

(2) In any case for which the Act of 1946, Title 35 of the United States Code, or parts 2, 3, 6, and 7 of Title 37 of the Code of Federal Regulations specifies that the matter is to be determined directly or reviewed by the Director;

(3) To invoke the supervisory authority of the Director in appropriate circumstances;

(4) In any case not specifically defined and provided for by parts 2, 3, 6, and 7 of Title 37 of the Code of Federal Regulations; or

(5) In an extraordinary situation, when justice requires and no other party is injured thereby, to request a suspension or waiver of any requirement of the rules not being a requirement of the Act of 1946.

\* \* \* \* \*

■ 15. Add § 2.147 to read as follows:

**§ 2.147 Petition to the Director to accept a paper submission.**

(a) *Paper submission when TEAS is unavailable on the date of a filing deadline.* (1) An applicant or registrant may file a petition to the Director under this section requesting acceptance of a submission filed on paper if:

(i) TEAS is unavailable on the date of the deadline for the submission specified in a regulation in part 2 or 7 of this chapter or in a section of the Act; and

(ii) The petition is timely filed, pursuant to § 2.197 or § 2.198, on the date of the deadline.

(2) The petition must include:

(i) The paper submission;

(ii) Proof that TEAS was unavailable on the date of the deadline;

(iii) A statement of the facts relevant to the petition, supported by a declaration under § 2.20 or 28 U.S.C. 1746 that is signed by the petitioner, someone with legal authority to bind the petitioner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter;

(iv) The fee for a petition filed on paper under § 2.6(a)(15)(i); and

(v) Any other required fee(s) under § 2.6 for the paper submission.

(b) *Certain paper submissions timely filed before the date of a filing deadline.*

(1) An applicant, registrant, or petitioner for cancellation may file a petition to the Director under this section, requesting acceptance of any of the following submissions that was timely

submitted on paper and otherwise met the minimum filing requirements, but not examined by the Office because it was not submitted electronically pursuant to § 2.21(a), § 2.23(a), or § 2.111(c), and the applicant, registrant, or petitioner for cancellation is unable to timely resubmit the document electronically by the deadline:

(i) An application seeking a priority filing date with a deadline under section 44(d)(1) of the Act;

(ii) A statement of use filed within the last six months of the period specified in section 1(d)(2) of the Act;

(iii) An affidavit or declaration of continued use or excusable nonuse with a deadline under section 8(a)(3) or section 71(a)(3) of the Act;

(iv) A request for renewal of a registration with a deadline under section 9(a) of the Act;

(v) An application for transformation of an extension of protection into a United States application with a deadline under section 70 of the Act; or

(vi) A petition to cancel a registration under section 14 of the Act on the fifth year anniversary of the date of the registration of the mark.

(2) The petition must be filed by not later than two months after the issue date of the notice denying acceptance of the paper filing and must include:

(i) A statement of the facts relevant to the petition, supported by a declaration under § 2.20 or 28 U.S.C. 1746 that is signed by the petitioner, someone with legal authority to bind the petitioner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter;

(ii) Proof that a sufficient fee accompanied the original paper submission;

(iii) The required fee(s) under § 2.6 for the paper submission; and

(iv) The relevant petition fee under § 2.6(a)(15).

(c) *Petition under § 2.146.* If the applicant or registrant is unable to meet the requirements under paragraphs (a) or (b) of this section for filing the petition, the applicant or registrant may submit a petition to the Director under § 2.146(a)(5) to request a waiver of § 2.21(a) or § 2.23(a).

(d) This section does not apply to requirements for paper submissions to the Trademark Trial and Appeal Board except as specified in paragraph (b)(vi).

■ 16. Revise § 2.148 to read as follows:

**§ 2.148 Director may suspend certain rules.**

In an extraordinary situation, when justice requires and no other party is injured thereby, any requirement of the

rules in parts 2, 3, 6, and 7 of this chapter that is not a requirement of the Act may be suspended or waived by the Director.

■ 17. Revise § 2.151 to read as follows:

**§ 2.151 Certificate.**

When the Office determines that a mark is registrable, the Office will issue to the owner a certificate of registration on the Principal Register or the Supplemental Register. The certificate will state the application filing date, the act under which the mark is registered, the date of issue, and the number of the registration and will include a reproduction of the mark and pertinent data from the application. A notice of the requirements of sections 8 and 71 of the Act will issue with the certificate.

■ 18. Revise § 2.162 to read as follows:

**§ 2.162 Notice to registrant.**

When a certificate of registration is originally issued, the Office issues with the certificate a notice of the requirement for filing the affidavit or declaration of use or excusable nonuse under section 8 of the Act. However, the affidavit or declaration must be filed within the time period required by section 8 of the Act even if this notice is not received.

■ 19. Revise § 2.190 to read as follows:

**§ 2.190 Addresses for trademark correspondence with the United States Patent and Trademark Office.**

(a) *Paper trademark documents.* In general, trademark documents to be delivered by the USPS must be addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451. Trademark-related documents to be delivered by hand, private courier, or other delivery service may be delivered during the hours the Office is open to receive correspondence to the Trademark Assistance Center, James Madison Building—East Wing, Concourse Level, 600 Dulany Street, Alexandria, Virginia 22314.

(b) *Electronic trademark documents.* Trademark documents filed electronically must be submitted through TEAS. Documents that relate to proceedings before the Trademark Trial and Appeal Board must be filed electronically with the Board through ESTTA.

(c) *Trademark assignment documents.* Requests to record documents in the Assignment Recordation Branch may be filed electronically through ETAS. Paper documents and cover sheets to be recorded in the Assignment Recordation Branch should be addressed as designated in § 3.27 of this chapter.

(d) *Requests for certified copies of trademark documents.* Paper requests

for certified copies of trademark documents should be addressed to: Mail Stop Document Services, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450.

(e) *Certain documents relating to international applications and registrations.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacements under § 7.28, requests for transformation under § 7.31 of this chapter, and petitions to the Director to review an action of the Office's Madrid Processing Unit must be addressed to: Madrid Processing Unit, 600 Dulany Street, Alexandria, VA 22314–5796.

■ 20. Revise § 2.191 to read as follows:

**§ 2.191 Action of the Office based on the written record.**

All business with the Office must be transacted in writing. The action of the Office will be based exclusively on the written record. No consideration will be given to any alleged oral promise, stipulation, or understanding when there is disagreement or doubt.

■ 21. Amend § 2.193 by revising paragraphs (a)(2), (b), (c)(1), and (d), the introductory text of paragraph (e), (e)(10), and (g) to read as follows:

**§ 2.193 Trademark correspondence and signature requirements.**

(a) \* \* \*

(2) An electronic signature that meets the requirements of paragraph (c) of this section, personally entered by the person named as the signatory. The Office will accept an electronic signature that meets the requirements of paragraph (c) of this section on correspondence filed on paper or through TEAS or ESTTA.

(b) *Copy of original signature.* If a copy of an original signature is filed, the filer should retain the original as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

(c) \* \* \*

(1) Personally enter any combination of letters, numbers, spaces and/or punctuation marks that the signer has adopted as a signature, placed between two forward slash (“/”) symbols in the signature block on the electronic submission; or

\* \* \* \* \*

(d) *Signatory must be identified.* The first and last name, and the title or position, of the person who signs a document in connection with a

trademark application, registration, or proceeding before the Trademark Trial and Appeal Board must be set forth immediately below or adjacent to the signature.

(e) *Proper person to sign.* Documents filed in connection with a trademark application or registration must be signed as specified in paragraphs (e)(1) through (10) of this section:

\* \* \* \* \*

(10) *Cover letters.* A person transmitting documents to the Office may sign a cover letter or transmittal letter. The Office neither requires cover letters nor questions the authority of a person who signs a communication that merely transmits documents.

\* \* \* \* \*

(g) *Separate copies for separate files.* (1) Since each file must be complete in itself, a separate copy of every document filed in connection with a trademark application, registration, or inter partes proceeding must be furnished for each file to which the document pertains, even though the documents filed in multiple files may be identical.

(2) Parties should not file duplicate copies of documents in a single application, registration, or proceeding file, unless the Office requires the filing of duplicate copies.

\* \* \* \* \*

■ 22. Revise § 2.195 to read as follows:

**§ 2.195 Filing date of trademark correspondence.**

The filing date of trademark correspondence is determined as follows:

(a) *Electronic submissions.* The filing date of an electronic submission is the date the Office receives the submission, based on Eastern Time, regardless of whether that date is a Saturday, Sunday, or Federal holiday within the District of Columbia.

(b) *Paper correspondence.* The filing date of a submission submitted on paper is the date the Office receives the submission, except as follows:

(1) *Priority Mail Express®.* The filing date of the submission is the date of deposit with the USPS, if filed pursuant to the requirements of § 2.198.

(2) *Certificate of mailing.* The filing date of the submission is the date of deposit with the USPS, if filed pursuant to the requirements of § 2.197.

(3) *Office closed.* The Office is not open to receive paper correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia.

(c) *Email and facsimile submissions.* Email and facsimile submissions are not

permitted and if submitted will not be accorded a date of receipt.

(d) *Interruptions in U.S. Postal Service.* If the Director designates a postal service interruption or emergency within the meaning of 35 U.S.C. 21(a), any person attempting to file correspondence by Priority Mail Express® Post Office to Addressee service who was unable to deposit the correspondence with the USPS due to the interruption or emergency may petition the Director to consider such correspondence as filed on a particular date in the Office. The petition must:

(1) Be filed promptly after the ending of the designated interruption or emergency;

(2) Include the original correspondence or a copy of the original correspondence; and

(3) Include a statement that the correspondence would have been deposited with the United States Postal Service on the requested filing date but for the designated interruption or emergency in Priority Mail Express® service; and that the correspondence attached to the petition is the original correspondence or a true copy of the correspondence originally attempted to be deposited as Priority Mail Express® on the requested filing date.

■ 23. Revise § 2.197 to read as follows:

**§ 2.197 Certificate of mailing.**

(a) The filing date of correspondence submitted under this section is the date of deposit with the USPS if the correspondence:

(1) Is addressed as set out in § 2.190 and deposited with the USPS with sufficient postage as first-class mail; and

(2) Includes a certificate of mailing for each piece of correspondence that:

(i) Attests to the mailing and the address used;

(ii) Includes the name of the document and the application serial number or USPTO reference number, if assigned, or registration number to which the document pertains;

(iii) Is signed separately from any signature for the correspondence by a person who has a reasonable basis to expect that the correspondence would be mailed on the date indicated; and

(iv) Sets forth the date of deposit with the USPS.

(b) If correspondence is mailed in accordance with paragraph (a) of this section, but not received by the Office, the party who mailed such correspondence may file a petition to the Director under § 2.146(a)(2) to consider such correspondence filed in the Office on the date of deposit with the USPS. The petition must:

(1) Be filed within two months after the date of mailing;

(2) Include a copy of the previously mailed correspondence and certificate; and

(3) Include a verified statement attesting to the facts of the original mailing.

(c) If the certificate of mailing does not meet the requirements of paragraph (a)(2) of this section, the filing date is the date the Office receives the submission.

■ 24. Revise § 2.198 to read as follows:

**§ 2.198 Filing of correspondence by Priority Mail Express®.**

(a) The filing date of correspondence submitted under this section is the date of deposit with the USPS, as shown by the “date accepted” on the Priority Mail Express® label or other official USPS notation.

(b) If the USPS deposit date cannot be determined, the filing date is the date the Office receives the submission.

(c) If there is a discrepancy between the filing date accorded by the Office to the correspondence and the “date accepted,” the party who submitted the correspondence may file a petition to the Director under § 2.146(a)(2) to accord the correspondence a filing date as of the “date accepted.” The petition must:

(1) Be filed within two months after the date of deposit;

(2) Include a true copy of the Priority Mail Express® mailing label showing the “date accepted,” and any other official notation by the USPS relied upon to show the date of deposit; and

(3) Include a verified statement attesting to the facts of the original mailing.

(d) If the party who submitted the correspondence can show that the “date accepted” was incorrectly entered or omitted by the USPS, the party may file a petition to the Director under § 2.146(a)(2) to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS. The petition must:

(1) Be filed within two months after the date of deposit;

(2) Include proof that the correspondence was deposited in the Priority Mail Express® Post Office to Addressee service prior to the last scheduled pickup on the requested filing date. Such proof must be corroborated by evidence from the USPS or evidence that came into being within one business day after the date of deposit; and

(3) Include a verified statement attesting to the facts of the original mailing.

(e) If correspondence is properly addressed to the Office pursuant to

§ 2.190 and deposited with sufficient postage in the Priority Mail Express® Post Office to Addressee service of the USPS, but not received by the Office, the party who submitted the correspondence may file a petition to the Director under § 2.146(a)(2) to consider such correspondence filed in the Office on the USPS deposit date. The petition must:

(1) Be filed within two months after the date of deposit;

(2) Include a copy of the previously mailed correspondence showing the number of the Priority Mail Express® mailing label thereon; and

(3) Include a verified statement attesting to the facts of the original mailing.

**PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS**

■ 25. The authority citation for 37 CFR part 7 continues to read as follows:

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

■ 26. Amend § 7.1 by revising paragraphs (c), (d), and (f) to read as follows:

**§ 7.1 Definitions of terms as used in this part.**

\* \* \* \* \*

(c) The acronym *TEAS* means the Trademark Electronic Application System, and, as used in this part, includes all related electronic systems required to complete an electronic submission through TEAS.

(d) The term *Office* or the abbreviation *USPTO* means the United States Patent and Trademark Office.

\* \* \* \* \*

(f) The definitions specified in § 2.2(k), (n), and (p) through (r) of this chapter apply to this part.

■ 27. Revise § 7.4 to read as follows:

**§ 7.4 International applications and registrations originating from the USPTO—Requirements to electronically file and communicate with the Office.**

(a) Unless stated otherwise in this chapter, all correspondence filed with the USPTO relating to international applications and registrations originating from the USPTO must be submitted through TEAS and include a valid email correspondence address.

(b) Applicants and registrants under this section must provide and maintain a valid email address for correspondence with the Office.

(c) If an applicant or registrant under this section is a national of a country

that has acceded to the Trademark Law Treaty, but not to the Singapore Treaty on the Law of Trademarks, the requirements of paragraphs (a) and (b) of this section do not apply.

(d) If TEAS is unavailable, or in an extraordinary situation, an applicant or registrant under this section who is required to file a submission through TEAS may submit a petition to the Director under § 2.146(a)(5) and (c) of this chapter to accept the submission filed on paper.

■ 28. Amend § 7.11 by revising the introductory text to paragraph (a), (a)(10), and (a)(11), and removing paragraph (a)(12) to read as follows:

**§ 7.11 Requirements for international application originating from the United States.**

(a) The Office will grant a date of receipt to an international application that is filed through TEAS in accordance with § 7.4(a), or typed on the official paper form issued by the International Bureau, if permitted under § 7.4(c) or accepted on petition pursuant to § 7.4(d). The international application must include all of the following:

\* \* \* \* \*

(10) If the application is filed through TEAS, the international application fees for all classes, and the fees for all designated Contracting Parties identified in the international application (see § 7.7); and

(11) A statement that the applicant is entitled to file an international application in the Office, specifying that applicant: is a national of the United States; has a domicile in the United States; or has a real and effective industrial or commercial establishment in the United States. Where an applicant's address is not in the United States, the applicant must provide the address of its U.S. domicile or establishment.

\* \* \* \* \*

■ 29. Amend § 7.21 by revising the introductory text to paragraph (b), (b)(7), and (b)(8), and removing paragraph (b)(9) to read as follows:

**§ 7.21 Subsequent designation.**

\* \* \* \* \*

(b) The Office will grant a date of receipt to a subsequent designation that is filed through TEAS in accordance with § 7.4(a), or typed on the official paper form issued by the International Bureau, if permitted under § 7.4(c) or accepted on petition pursuant to § 7.4(d). The subsequent designation must contain all of the following:

\* \* \* \* \*

(7) The U.S. transmittal fee required by § 7.6; and

(8) If the subsequent designation is filed through TEAS, the subsequent designation fees (see § 7.7).

\* \* \* \* \*

■ 30. Amend § 7.25 by revising paragraph (a) to read as follows:

**§ 7.25 Sections of part 2 applicable to extension of protection.**

(a) Except for §§ 2.21, 2.22, 2.76, 2.88, 2.89, 2.130, 2.131, 2.160 through 2.166, 2.168, 2.173, 2.175, 2.181 through 2.186, 2.197, and 2.198, all sections in parts 2 and 11 of this chapter shall apply to an extension of protection of an international registration to the United States, including sections related to proceedings before the Trademark Trial and Appeal Board, unless otherwise stated.

\* \* \* \* \*

Dated: May 21, 2018.

**Andrei Iancu,**

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

[FR Doc. 2018-11353 Filed 5-29-18; 8:45 am]

**BILLING CODE 3510-16-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

**[EPA-R04-OAR-2017-0390; FRL-9978-59-Region 4]**

**Air Plan Approval and Air Quality Designation; KY; Redesignation of the Kentucky Portion of the Louisville Unclassifiable Area**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On May 4, 2018, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (KDAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of Kentucky that is within the bi-state Louisville, KY-IN fine particulate matter (PM<sub>2.5</sub>) unclassifiable area (hereinafter referred to as the “bi-state Louisville Area” or “Area”) to unclassifiable/attainment for the 2012 primary annual PM<sub>2.5</sub> national ambient air quality standard (NAAQS). The bi-state Louisville Area consists of Jefferson County and a portion of Bullitt County in Kentucky as well as Clark and Floyd Counties in Indiana. EPA now has sufficient data to determine that the bi-state Louisville Area is in attainment of the 2012 primary annual PM<sub>2.5</sub> NAAQS. Therefore, EPA is proposing to approve

Kentucky's request and redesignate the Area to unclassifiable/attainment for the 2012 primary annual PM<sub>2.5</sub> NAAQS based upon complete, quality-assured, and certified ambient air monitoring data showing that the PM<sub>2.5</sub> monitors in the bi-state Louisville Area are in compliance with the 2012 primary annual PM<sub>2.5</sub> NAAQS.

**DATES:** Comments must be received on or before June 29, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0390 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Madolyn Sanchez, Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Madolyn Sanchez may be reached by phone at (404) 562-9644 or via electronic mail at [sanchez.madolyn@epa.gov](mailto:sanchez.madolyn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Clean Air Act (CAA or Act) establishes a process for air quality management through the establishment and implementation of the NAAQS. After the promulgation of a new or revised NAAQS, EPA is required to designate areas, pursuant to section 107(d)(1) of the CAA, as attainment, nonattainment, or unclassifiable. On December 14, 2012, EPA revised the primary annual NAAQS for PM<sub>2.5</sub> at a level of 12 micrograms per cubic meter