Thence South for a distance of 218.7 feet;
Thence West for a distance of 161.58;
Thence North 24°46′16″ East for a distance of 240.86 feet back to the True Point of Beginning.

Any person wishing to comment on the proposed boundary change may forward written statements to the Oregon Division of State Lands, South Slough National Estuarine Research, P.O. Box 5417, Charleston, OR. 97420. Comments must be received by the Division of State Lands no later than close of business (30) thirty days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Nina Garfield, NOAA/NOS/OCRM/SRD, 1305 East-West Highway, SSMC4 12th Floor, Silver Spring, MD. 20910; Phone: (301) 713–3141, ext. 171.

Dated: September 8, 1995.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

(Federal Domestic Assistance Catalog Number 11.420 (Coastal Zone Management) Estuarine Sanctuaries)

[FR Doc. 95–22999 Filed 9–14–95; 8:45 am]

BILLING CODE 3510–08–M

Patent and Trademark Office

[Docket No. 950829221–5221–01]

RIN 0651–XX03

Request for Comments Concerning the Right of Priority (35 U.S.C. 119) and Electronic Exchange of Priority Documents

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice; Request for Comments.

SUMMARY: The Patent and Trademark Office (PTO) requests written public comment on various aspects of existing statutory and regulatory requirements for obtaining the right of priority of an earlier filed foreign application. The PTO also requests written public comment on issues associated with the electronic exchange of priority documents between the PTO, the European Patent Office (EPO), and the Japanese Patent Office (JPO).

DATES: Written comments on the topics presented in the supplementary section of this notice, or any related topics, will be accepted by the PTO until November 13, 1995.

ADDRESSES: Those interested in presenting written comments on the topics presented in the supplementary information, or any related topics, may mail their comments to the Assistant Commissioner for Patents, Washington, D.C. 20231, marked to the attention of Box DAC. In addition, comments may also be sent by facsimile transmission to (703) 308–6916, with a confirmation copy mailed to the above address, or by electronic mail messages over the Internet to priority@uspto.gov.

FOR FURTHER INFORMATION CONTACT: Jeffrey V. Nase by telephone at (703) 305–9285, or by mail marked to the attention of Box DAC, addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION:

I. Issues for Public Comment

The PTO is inviting written public comments on the administration and relevance of the existing statutory and regulatory requirements for obtaining the right of priority of an earlier filed foreign application and/or issues associated with the electronic exchange of priority documents between the Trilateral Offices (PTO, EPO, and JPO). Questions included at the end of this section are intended to illustrate the types of issues upon which the PTO is particularly interested in obtaining public comment. This notice has been determined to be not significant for the purposes of Executive Order 12866.

A. The Requirement for a Certified Copy of the Foreign Application Unless Deemed Necessary

Currently, the Trilateral Offices are reconsidering the need that a certified copy of the foreign application be submitted in all cases. 35 U.S.C. 119 requires that a certified copy of a foreign application be submitted in all cases in order to obtain the right of priority. Specifically, 35 U.S.C. 119(b) requires that the applicant file a claim for the right of priority and a certified copy of the original foreign application before the grant of the patent, or at any time during the pendency of the application as required by the Commissioner, but not earlier than six months after the filing of the application in this country. The Commissioner may currently require a translation of the papers filed if not in the English language.

37 CFR 1.55, which implements 35 U.S.C. 119(b), requires that the claim for priority and the certified copy of the foreign application must be filed in all cases before the grant of the patent in order to be entitled to the right of priority, and requires a claim for priority or certified copy of the foreign application filed after payment of the issue fee to be accompanied by a petition (and fee under 37 CFR 1.17(i)) requesting entry. However, the certified copy of the foreign application may be required earlier during the pendency of the application in the case of an interference, when necessary to overcome the date of a reference relied upon by the examiner, or when specifically required by the examiner. If the certified copy of the foreign application is not in the English language, a translation will not be required except in the case of an interference, when necessary to overcome the date of a reference relied upon by the examiner, or when specifically required by the examiner.

Consequently, by statute and regulation, the certified copy of the foreign application must be filed in all cases during the pendency of the application even though it may be unnecessary to the examination of the application. Unless a substantive review of the certified copy of the foreign application, or a translation of such, is necessary to the examination of the application, *e.g.*, during an interference or when necessary to overcome an intervening reference, the claim to priority and the certified copy of the foreign application are merely reviewed to determine whether the certified copy of the foreign application corresponds in number, date, and country to the application identified in the oath or declaration and that there are no obvious formal defects. There is generally no examination of the certified copy of the foreign application to determine whether the applicant is entitled to the benefit of the foreign filing date on the basis of the disclosure of the document. Thus, an unnecessary burden is placed upon applicants to obtain certified copies of the priority documents from the appropriate office and then submit them to the PTO in instances in which the PTO does not substantively examine such documents, especially in view of the fact that such documents do not qualify as prior art in the United States. Further, an unnecessary burden is placed upon the PTO in the processing of such documents.

This right of priority originated in a multilateral treaty of 1883, *i.e.*, the Paris Convention for the Protection of Industrial Property (Paris Convention), to which the United States adhered in 1887. The Paris Convention, however, merely requires that a person who wishes to take advantage of a previous filing make a declaration indicating the date of such filing and the country in which it was filed. The Paris Convention permits, but does not require, the countries of the Union to require a certified copy of the foreign application of the application as

previously filed. Under the Paris Convention, the countries may also require that a translation accompany the certified copy of the foreign application. See Questions #1, 2, and 3.

B. Electronic Exchange of Priority Documents

The PTO also requests written public comment on issues associated with the electronic exchange of priority documents between the PTO, EPO, and JPO. Currently, the Trilateral Offices are considering the implementation of procedures that would allow for the direct exchange of priority documents in electronic form between the office of first filing and the offices of subsequent filings. See Question #4. The PTO is interested in how the public views such electronic exchanges of priority documents, including the evidentiary effect of an electronic document constituting the official PTO record of the priority document. See Questions #5 and 6.

It is anticipated that it will be some time before the PTO will have an electronic data base containing the content of applications-as-filed in a word-recognizable format, *e.g.*, applications captured by optical character recognition (OCR). As such, any electronic exchange, at least initially, would be in the form of digital images of the applications-as-filed.

It is contemplated that under a system authorizing the exchange of priority documents, an applicant would have to request that an office forward the priority document directly to another office in electronic form, rather than having the certified copy go to the applicant, who in turn would forward it to the other office. The PTO is also considering providing a return receipt to indicate to the applicant that the request to forward the priority document was received by the PTO and that the PTO has forwarded the priority document to the office(s) designated by the applicant.

The cost to the PTO of processing requests and forwarding priority documents to the designated office(s), and of generating and mailing return receipts, would be recovered through service fees. See Questions #7 and 8. Nevertheless, such a direct exchange of priority documents for a service fee should result in an overall reduction in costs and administrative work for applicants, as well as cost reductions in the conversion from paper to electronic form.

II. Questions

1. (a) Does the requirement that a certified copy of the foreign application be submitted in all cases before the grant of a patent in order to be entitled to the right of priority serve any useful purpose? If yes, please provide those useful purposes.

(b) Is your answer affected by the fact that such documents may qualify as novelty defeating prior art in other countries?

2. (a) Notwithstanding the existing requirements, when should an applicant be required to submit a certified copy of the foreign application?

(b) Would you continue to submit a certified copy of the foreign application even if not specifically required?

(c) Should any action taken by the U.S. Government be contingent on action in the other Trilateral countries?

3. When the foreign application is not in the English language and an English translation is deemed necessary, should both a certified copy of the foreign application and an English language translation accompanied by a verified statement that the translation is an accurate translation of the certified copy of the foreign application be required, or should only an English language translation of the foreign application accompanied by a verified statement that the translation is accurate be required?

4. What significant problems, either legal or technical, would need to be solved to permit the offices of subsequent filing to receive the priority documents directly from the office of first filing rather than from the applicant?

5. Should the PTO, EPO, and JPO electronically exchange priority documents at the request of applicant? Would most applicants take advantage of this service? What disadvantages, if any, are there in the electronic transmission of priority documents among the PTO, EPO, and JPO?

6. Will the filing of a priority document in electronic form by the office of first filing, rather than in paper form by the applicant, affect the legal admissibility of the priority document?

7. If there was a service fee for the direct exchange of priority documents among the PTO, EPO, and JPO, which was higher than the current fee charged for a certified copy of the application, would most applicants still take advantage of this service? At what fee amount would most applicants choose to request the direct exchange of priority documents?

8. If providing a return receipt resulted in an increase in the service fee for the direct exchange of priority documents among the PTO, EPO, and JPO, would a return receipt be desirable? Against the background that increasing the information provided on such a return receipt would increase the cost of generating such return receipt, and thus increase the service fee, what information should be included on the return receipt?

Dated: September 8, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 95–22858 Filed 9–14–95; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a distress marker light to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: October 16, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On June 2, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (60 F.R. 28781) of proposed addition to the Procurement List. Comments were received from two producers of the distress marker light, one of which is a current contractor with the Government for the light. The contractor stated that the light is a large percentage of its sales, and that losing these sales would have a severe impact on the company and its employees. The contractor claimed that addition of this light to the Procurement List would unreasonably foreclose the contractor from the Government market for strobe marker distress lights, as the Committee has already added the other version the Government buys to the Procurement List. The contractor asked that the Committee not add the light to the Procurement List at least until the current commercial procurement is completed, to allow the contractor to develop a commercial item which would replace the loss of Government sales of the light.