

(c) You must correct any deficiencies found by MMS.

Steps for correcting deficiencies may include:

- (1) Isolating problem areas by doing more testing; and
- (2) Reassigning employees or conducting the training they need (MMS will not identify the employees it tests).

§ 250.231 If MMS tests trainees at a training organization's facility, what must occur?

(a) Training organizations must allow MMS to test trainees.

(b) The trainee must pass the MMS-conducted test or a retest in order for MMS to consider that the trainee completed the training.

§ 250.232 Why might MMS conduct its own tests?

MMS needs to identify the effectiveness of a training program that provides safe and clean operations.

[FR Doc. 95-27077 Filed 11-1-95; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 5 and 10

[Docket No. 951006247-5247-01]

RIN 0651-AA70

Communications With the Patent and Trademark Office

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office (Office) is proposing to amend the rules of practice in patent and trademark cases to simplify and streamline existing mailing procedures. The new procedures will include specific addresses for most mail to ensure faster and more accurate mail delivery. A definition of "Federal holiday within the District of Columbia" is provided and the procedure for "Express Mail" will be simplified.

DATES: Comments must be received by January 2, 1996. No hearing will be held.

ADDRESSES: Address written comments to Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, marked to the attention of Lynne G. Beresford. In addition, written comments may also be sent by facsimile transmission to (703) 308-7220 with a confirmation copy mailed to the above address, or by

electronic mail messages over the Internet to mail-rule@uspto.gov.

Written comments will be available for public inspection on January 16, 1996, in the Assistant Commissioner for Trademarks' suite on the 10th floor of the South Tower Building, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

FOR FURTHER INFORMATION CONTACT:

Lawrence E. Anderson (for patent-related matters) by telephone at (703) 305-9285, by electronic mail at landerso@uspto.gov, or by mail to his attention addressed to the Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231; or Lynne G. Beresford (for trademark-related matters) by telephone at (703) 308-8900, extension 44, or by mail marked to their attention and addressed to the Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

SUPPLEMENTARY INFORMATION: Addresses for correspondence with the Office are proposed to be changed to reflect the creation of a mailroom site at the South Tower Building for processing most trademark-related mail; to distinguish correspondence intended for organizations reporting to the Assistant Commissioner for Patents from other correspondence; and to add a separate mailing address in the Office of the Solicitor for disciplinary matters.

The proposed rulemaking entitled "Changes in Requirements for Addressing Trademark Applications and Trademark-Related Papers" (0651-AA73) has been merged with this notice of proposed rulemaking.

The Office will now have three separate general mailing addresses: (1) Assistant Commissioner for Patents for correspondence processed by organizations reporting to the Assistant Commissioner for Patents; (2) Assistant Commissioner for Trademarks for all trademark-related mail, except for trademark documents sent to the Assignment Division for recordation and requests for certified and uncertified copies of trademark documents which should be addressed to the Commissioner of Patents and Trademarks; and (3) Commissioner of Patents and Trademarks for all other correspondence. Notwithstanding the above, it is proposed that there will be separate mailing addresses in the Office of the Solicitor for certain disciplinary matters and cases involving pending litigation.

Those who correspond with the Office are requested to use separate envelopes directed to the different areas.

Because patent-related mail will be sent to the Assistant Commissioner for

Patents, the requirement to designate patent application correspondence as "PATENT APPLICATION" is proposed to be deleted from section 1.5(a).

In addition, it is proposed that "Federal holiday within the District of Columbia" be defined as including Official closings.

It is further proposed that a "Certificate of Mailing by Express Mail" (currently necessary to obtain the benefit of the date of deposit with the United States Postal Service (U.S.P.S.) as the filing date of the Paper) no longer be required for correspondence actually received in the Office.

Patent-Related Mail

Section 1.1 is proposed to be amended to provide for correspondence which is processed by organizations reporting to the Assistant Commissioner for Patents to be addressed to the "Assistant Commissioner for Patents, Washington, DC 20231." The Office first announced the new address for patent-related mail in a notice (Change of Address for Patent Applications and Patent Related Papers) published in the Official Gazette at 1173 Off. Gaz. Pat. Office 13 (April 4, 1995).

This change will affect correspondence such as: patent applications, responses to notices of informality, requests for extension of time, notices of appeal to the Board of Patent Appeals and Interferences (the Board), briefs in support of an appeal to the Board, requests for oral hearing before the Board, extensions of term of patent, requests for reexamination, statutory disclaimers, certificates of correction, petitions to the Commissioner, submission of information disclosure statements, petitions to institute a public use proceeding, petitions to revive abandoned patent applications, and other correspondence related to patent applications and patents which is processed by organizations reporting to the Assistant Commissioner for Patents. When patent-related documents are filed with a certificate of mailing, pursuant to section 1.8, the certificate of mailing should be completed with the new address: Assistant Commissioner for Patents, Washington, D.C. 20231.

Unless otherwise specified, correspondence not processed by organizations reporting to the Assistant Commissioner for Patents, such as communications with the Board, patent services including patent copy sales, assignments, requests for lists of patents and SIRs in a subclass, requests for the status of maintenance fee payments, as well as patent practitioner enrollment matters including admission to

examination, registration to practice, certificates of good standing, and financial service matters including establishing a deposit account should continue to be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. Documents to be recorded with the Assignment Division, except those filed with new applications, should be addressed to: Box Assignment, Commissioner of Patents and Trademarks, Washington, D.C. 20231. Orders for certified and uncertified copies of Office documents should be addressed to: Box 10, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Special Office mail boxes as currently listed in each issue of the Official Gazette should continue to be used to allow forwarding of particular types of mail to the appropriate areas as quickly as possible. Use of special box designations will facilitate the Office's timely and accurate identification and processing of the designated correspondence.

Checks should continue to be made payable to the Commissioner of Patents and Trademarks.

Trademark-Related Mail

Most trademark-related mail should be sent directly to the Trademark Operation at: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513. When trademark-related documents are filed with a certificate of mailing, pursuant to section 1.8, the certificate of mailing should be completed with the new address: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513. Use of the correct address will avoid processing delays. Trademark documents to be recorded with the Assignment Division, except those filed with new applications, should be addressed to: Box Assignment, Commissioner of Patents and Trademarks, Washington, D.C. 20231. Orders for certified and uncertified copies of trademark documents should be addressed to: Box 10, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

The Office announced the new address for trademark-related mail in a notice (Change of Address for Trademark Applications and Trademark Related Papers) published in the Federal Register at 59 FR 29275 (June 6, 1994) and in the Trademark Office Official Gazette at 1163 Off. Gaz. Trademark Office 80 (June 28, 1994) (republished in 1170 Off. Gaz. Pat. Office 303 (January 3, 1995)).

The Office will continue to maintain the special box designations and FEE/NO FEE indicators for trademark mail as currently listed in each issue of the Official Gazette. In addition to addressing trademark-related mail as set forth above, the boxes should also be used to allow forwarding of particular types of mail to the appropriate areas as quickly as possible.

Checks should continue to be made payable to the Commissioner of Patents and Trademarks.

Mail intended for the Trademark Trial and Appeal Board should be addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, including BOX TTAB/FEE or BOX TTAB/NO FEE, whichever is applicable.

Hand-Carried Correspondence

All correspondence with the Office, except for communications relating to pending litigation as specified currently in section 1.1(g), may continue to be filed directly at the Attorney's Window located in Room 1B03 of Crystal Plaza Building 2, 2011 South Clark Place, Arlington, Virginia. Trademark-related papers may also be filed at the "walk-up" window located on the third floor of the South Tower Building, 2900 Crystal Drive, Arlington, Virginia.

Federal Holidays Within The District of Columbia

When the Patent and Trademark Office is officially closed for an entire day (for reasons due to weather or other causes), the Office will consider each such day a "Federal holiday within the District of Columbia" under 35 U.S.C. 21. Any action or fee due on such a day may be taken, or fee paid, on the next succeeding business day the Office is open.

Legal holidays considered "Federal holidays within the District of Columbia" are New Year's Day (January 1), Martin Luther King, Jr.'s Birthday (third Monday in January), Presidential Inauguration Day, Washington's Birthday (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Columbus Day (second Monday in October), Veterans Day (November 11), Thanksgiving Day (fourth Thursday in November) and Christmas Day (December 25). In the past, the Office has published notices concerning unscheduled closings. See, e.g., "Closing of Patent and Trademark Office on Thursday, January 20, 1994 and Friday, February 11, 1994," 1161 Off. Gaz. Pat. Office 12 (April 5, 1994) (republished in 1170 Off. Gaz. Pat.

Office 8 (January 3, 1995)) and "Filing of Papers During Unscheduled Closings of the Patent and Trademark Office," 1097 Off. Gaz. Pat. Office 53 (December 20, 1988) (republished in 1170 Off. Gaz. Pat. Office 8 (January 3, 1995)). The proposed rule change will further implement the existing policy.

Express Mail Provisions

Section 1.10 is proposed to be amended by deleting the requirement for a "Certificate of Mailing by Express Mail" to obtain the benefit of the date of deposit with the United States Postal Service (U.S.P.S.) as the filing date of the paper. The title of section 1.10 is proposed to be revised and section 1.10 is also proposed to be amended to incorporate requirements for the resubmission of misplaced correspondence which parallel section 1.8.

Under the current rule, the filer is required to include a Certificate of Mailing by Express Mail, certifying the date of deposit as Express Mail. Some papers filed with the Office, although deposited as Express Mail with the U.S.P.S., have been denied the filing date of the date of deposit as Express Mail because the required Certificate of Mailing by Express Mail was omitted or deficient. The lost filing date for a significant number of these papers has resulted in the loss of substantive rights. For example, a trademark registration may be canceled if the required affidavit of continued use or excusable non-use is not filed by the end of the sixth year of registration. 15 U.S.C. 1058.

In light of the problematic nature of the requirement for a Certificate of Mailing by Express Mail, inasmuch as the date of deposit has already been entered by a disinterested third party, the Office proposes to delete this requirement from section 1.10.

Miscellaneous Changes

Miscellaneous changes are proposed to change the word "communications" to "correspondence" for purposes of consistency.

Also, since the certificate of mailing by "Express Mail" will no longer be a requirement of the proposed rules, the provisions of Part 10 relating to misconduct are proposed to be amended to delete reference to this requirement.

Discussion of Specific Rules

If revised as proposed, the heading of section 1.1 will be changed to state that the section contains the addresses for correspondence to the Patent and Trademark Office.

Section 1.1 is proposed to be revised to set out all pertinent Office mailing

addresses in paragraph (a) and in added paragraphs (a)(1), (a)(2), and (a)(3). It should be noted that the remaining paragraphs of section 1.1 contain directions for using box designations rather than addresses. Paragraph (a)(1) is proposed to be added to set out the new mailing address to which most patent-related documents should be sent. Paragraph (a)(2) is proposed to be added to set out the new mailing address to which most trademark-related documents should be sent. The Solicitor's mailing address, formerly set out in paragraph (g) of the section is moved to a new paragraph (a)(3). Paragraph 1.1(g) is proposed to be removed and reserved.

Sections 1.1 and 1.3 are proposed to be amended so that the word "communications" is changed to "correspondence."

Section 1.5(a) is proposed to be amended by removing the requirement of the words "PATENT APPLICATION" on letters concerning patent applications.

Section 1.8(a) is proposed to be revised to state that papers and fees must be addressed as set out in 1.1(a). For the purposes of 1.8(a)(1)(i)(A), first class mail is interpreted as including "Express Mail" and "Priority Mail" deposited with the U.S.P.S.

Section 1.9 is proposed to be amended to add a definition of "Federal holiday within the District of Columbia" to include Federal holidays and days when the Patent and Trademark Office is officially closed for the entire day (for reasons due to adverse weather or other causes).

Section 1.10 is proposed to be revised to state that "Express Mail" must be addressed as set out in § 1.1(a). The title of section 1.10 is proposed to be revised to reflect this change. Further, for all correspondence actually received in the Office, the Office will consider the correspondence filed on the date shown by the "date in" notation on the "Express Mail" label unless the "date in" is a Saturday, Sunday or Federal holiday within the District of Columbia. Because of the reliance on the "date in" marked by the Postal Service, correspondence should be deposited directly with a person at the United States Postal Service, rather than in a drop box, to ensure that the person making the deposit receives a copy of the "Express Mail" label at the time of making the deposit to verify that the "date in" is accurately and clearly written by the Postal Service employee. Persons using an Express mail receptacle (such as a drop box) do so at the risk of not receiving an accurate and legible copy of the Express mail label at

the time of deposit from which the Office may determine the "Express mail" "date in," and, therefore, may not later argue that they should be entitled to the date on which they deposited the correspondence into a receptacle. Moreover, if the "date in" is found to be illegible or unclear, a person dealing directly with a Postal Service employee must take corrective action to ensure that a clear and accurate date is marked at the time of deposit. Persons choosing to use a receptacle (or the like) obviously do not oversee the marking by a Postal Service employee and thus may not later argue for the benefit of a section 1.10 filing date if the "date in" on the "Express Mail" label is improperly or not clearly marked. The determinative factor is when the Postal Service marks the "date in" and the mere deposit into a receptacle does not entitle one to an "Express Mail" "date in" under section 1.10.

Paragraph (b) of section 1.10 is proposed to be amended by deleting the requirement for a "Certificate of Mailing by Express Mail" currently necessary to obtain the benefit of the date of deposit with the United States Postal Service (U.S.P.S.) express mail service as the filing date of the paper.

Paragraph (c) of section 1.10 is proposed to be amended to set forth the requirements for the treatment of correspondence not received by the Office for which the "Express Mail" procedure was utilized. Correspondence not received by the Office will be considered filed in the Office on the date shown by the "date in" notation entered by the Postal Service if the party who forwards the correspondence:

(1) Places the number of the "Express Mail" mailing label on the correspondence prior to the original mailing by "Express Mail,"

(2) Informs the Office of the previous deposit of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(3) Supplies an additional copy of the previously deposited correspondence showing the number of the "Express Mail" label thereon,

(4) Supplies a copy of the "Express Mail" label clearly displaying the "date in" entered by the United States Postal Service, and

(5) Includes a statement which establishes, to the satisfaction of the Commissioner, the previous deposit and that the copies of the correspondence and "Express Mail" label are true copies of the original correspondence and "Express Mail" label. Such statement must be on the basis of personal knowledge, whenever possible, and

must be a verified statement if made by a person other than a practitioner as defined in section 10.1(r) of this chapter.

In addition, although the requirement for a certificate of express mail has been proposed to be eliminated from section 1.10, applicants are strongly encouraged to continue using the certificate of express mail, as well as the placement of the Express Mail label number in the upper right corner of the first page of each separate piece of correspondence and to retain a clearly marked Express Mail label, to facilitate complying with the requirements of paragraph (c) if the correspondence is not received in the Office or if reliance on the U.S.P.S. "date in" is not possible. Moreover, paragraph (d) is proposed to be added so that additional evidence may be required if the Office so determines.

Section 5.33 (entitled "Correspondence") is proposed to be amended to change the correspondence address to "Assistant Commissioner for Patents (Attention: Licensing and Review), Washington, DC 20231."

Section 10.23(c)(9) is proposed to be revised to reflect the proposed change to section 1.10 that the certificate of mailing by "Express Mail" is no longer a requirement of the rules.

Other Considerations

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Information collection requirements are not affected by the change of address. This proposed rule has been determined to not be significant for the purposes of Executive Order 12866.

The Office has determined that this proposed rule change has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the proposed rule changes would not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The proposed rule change has no effect on patent fees.

These proposed rule changes contain collections of information subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, which are currently approved by the Office of Management and Budget

under Control No. 0651-0009 and 0651-0031. The public reporting burden for these collections of information for certificate of mailing is estimated to average six minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of System Quality and Enhancement Division, Patent and Trademark Office, Washington, D.C. 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. (Attn: Paperwork Reduction Act Projects 0651-0009 and 0651-0031).

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Freedom of information, Inventions and patents, Reporting and record keeping requirements.

37 CFR Part 5

Classified information, Foreign relations, Inventions and patents.

37 CFR Part 10

Administrative Practice and procedure, Conflicts of interest, Courts, Inventions and patents, Lawyers.

For the reasons set forth in the preamble and under the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 15 U.S.C. 1123, 37 CFR Parts 1, 5 and 10 are proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

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

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.1 is proposed to be amended by removing and reserving paragraph (g) and by revising the heading and paragraph (a) to read as follows:

§ 1.1 Addresses for correspondence with the Patent and Trademark Office.

(a) Except for those documents identified in paragraphs (a)(1), (2) and (3) of this section, all correspondence intended for the Patent and Trademark Office must be addressed to "Commissioner of Patents and Trademarks, Washington, D.C. 20231." When appropriate, correspondence

should also be marked for the attention of a particular office or individual.

(1) *Patent correspondence.* All correspondence concerning patent matters processed by organizations reporting to the Assistant Commissioner for patents should be addressed to "Assistant Commissioner for Patents, Washington, D.C. 20231."

(2) *Trademark correspondence.* All correspondence concerning trademark matters, except for trademark-related documents sent to the Assignment Division for recordation and requests for certified and uncertified copies of trademark application and registration documents, should be addressed to "Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513." This includes correspondence intended for the Trademark Trial and Appeal Board.

(3) *Office of Solicitor correspondence.*
 (i) Correspondence relating to pending litigation required by court rule or order to be served on the Solicitor shall be hand-delivered to the Office of the Solicitor or shall be mailed to: Office of the Solicitor, P.O. Box 15667, Arlington, Virginia 22215; or such other address as may be designated in writing in the litigation. See §§ 1.302(c) and 2.145(b)(3) for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit.

(ii) Correspondence relating to disciplinary proceedings pending before an Administrative Law Judge or the Commissioner shall be mailed to: Office of the Solicitor, P.O. Box 16116, Arlington, Virginia 22215.

(iii) All other correspondence to the Office of the Solicitor shall be addressed to: Box 8, Commissioner of Patents and Trademarks, Washington, D.C. 20231.

(iv) Correspondence addressed to the wrong Post Office Box will not be filed elsewhere in the Patent and Trademark Office and might be returned.

* * * * *
 (g) [Reserved]
 * * * * *

3. Section 1.3 is proposed to be revised to read as follows:

§ 1.3 Business to be conducted with decorum and courtesy.

Applicants and their attorneys or agents are required to conduct their business with the Patent and Trademark Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by the Commissioner's direct order. Complaints against examiners and other employees must be made in correspondence separate from other papers.

4. Section 1.5(a) is proposed to be revised to read as follows:

§ 1.5 Identification of application, patent, or registration.

(a) No correspondence relating to an application should be filed prior to when notification of the application number is received from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the Certificate of Mailing or Transmission procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of the resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. If for some reason returned correspondence is resubmitted with proper identification later than two weeks after the return mailing by the Patent and Trademark Office, the resubmitted correspondence will be accepted but given its date of receipt. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patent should also state the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of

the examiner or other person to which it has been assigned.

* * * * *

5. Section 1.8(a)(1)(i)(A) is proposed to be revised to read as follows:

§ 1.8 Certificate of mailing or transmission.

(a) * * *

(1) * * *

(i) * * *

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

* * * * *

6. Section 1.9 is proposed to be amended by adding a new paragraph (h) to read as follows:

§ 1.9 Definitions.

* * * * *

(h) A "Federal holiday within the District of Columbia" as used in this chapter means any day, except Saturdays and Sundays, when the Patent and Trademark Office is officially closed for business.

7. Section 1.10 is proposed to be revised to read as follows:

§ 1.10 Filing of correspondence by "Express Mail."

(a) Any correspondence received by the Patent and Trademark Office utilizing the "Express Mail Post Office to Addressee" service of the United States Postal Service will be considered filed in the Office on the date shown by the "date in" notation entered by the United States Postal Service on the "Express Mail" label, unless the "date in" is a Saturday, Sunday or Federal holiday within the District of Columbia. See § 1.6(a). This procedure can be used to file any correspondence in the Office.

(b) Any correspondence filed by "Express Mail" must be addressed as set out in § 1.1(a) and should be deposited directly with the United States Postal Service to ensure that the person depositing the correspondence receives a copy of the "Express Mail" label at the time of deposit with the "date in" clearly marked thereon. Persons dealing indirectly with the United States Postal

Service (such as by deposit in an Express Mail drop box) do so at the risk of not receiving their copy of the "Express Mail" label with the "date in" clearly marked.

(c) Any correspondence mailed to the Patent and Trademark Office utilizing the "Express Mail Post Office to Addressee" service of the United States Postal Service, but not received by the Office, will be considered filed in the Office on the date shown by the "date in" notation entered by the United States Postal Service on the "Express Mail" label, unless the "date in" is a Saturday, Sunday or Federal holiday within the District of Columbia (see § 1.6(a)), if the party who forwarded such correspondence:

(1) Places the number of the "Express Mail" mailing label on the correspondence prior to the original mailing by "Express Mail,"

(2) Informs the Office of the previous deposit of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,

(3) Supplies a copy of the previously deposited correspondence showing the number of the "Express Mail" label thereon,

(4) Supplies a copy of the "Express Mail" label clearly displaying the "date in" entered by the United States Postal Service, and

(5) Includes a statement which establishes, to the satisfaction of the Commissioner, to the previous deposit and that the copies of the correspondence and "Express Mail" label are true copies of the original correspondence and "Express Mail" label. Such statement must be on the basis of personal knowledge, whenever possible, and must be a verified statement if made by a person other than a practitioner as defined in § 10.1(r) of this chapter.

(d) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the United States Postal Service on the date in question.

PART 5—SECURITY OF CERTAIN INVENTIONS AND LICENSES TO EXPORT AND FILE APPLICATIONS IN FOREIGN COUNTRIES

8. The authority citation for 37 CFR Part 5 continues to read as follows:

Authority: 35 U.S.C. 6, 41, 181–188, as amended by the Patent Law Foreign Filing Amendments Act of 1988, Pub. L. 100–418, 102 Stat. 1567; the Arms Export Control Act, as amended, 22 U.S.C. 2751 et seq., the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq., and the Nuclear Non-Proliferation Act of 1978, 22 U.S.C. 3201 et seq., and the delegations in the regulations under these acts to the Commissioner (15 CFR 370.10(j), 22 CFR 125.04, and 10 CFR 810.7).

9. Section 5.33 is proposed to be revised to read as follows:

§ 5.33 Correspondence.

All correspondence in connection with this part, including petitions, should be addressed to "Assistant Commissioner for Patents (Attention: Licensing and Review), Washington, D.C. 20231."

PART 10—REPRESENTATION OF OTHERS BEFORE THE PATENT AND TRADEMARK OFFICE

10. The authority citation for 37 CFR Part 10 continues to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

11. Section 10.23(c)(9) is proposed to be revised to read as follows:

§ 10.23 Misconduct.

* * * * *

(c) * * *

* * * * *

(9) Knowingly misusing a "Certificate of Mailing or Transmission" under § 1.8 of this chapter.

* * * * *

Dated: October 26, 1995.

Bruce A. Lehman,

*Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks.*

[FR Doc. 95–27031 Filed 11–1–95; 8:45 am]

BILLING CODE 3510–16–M