



International Trademark Association Comments on USPTO Proposed Amendment to Mandate Electronic Filing of Trademark Applications and Submissions and to Require the Designation of an Email Address for Receiving USPTO Correspondence.

PTO-T-2017-0004

The International Trademark Association (INTA) appreciates the USPTO's continued efforts to increase the number of applicants using electronic filing through the entire application process and is pleased to have the opportunity to provide comments regarding proposed procedure set forth in 83 FR 24701 related to development of mandatory electronic filing. The comments that follow were prepared by the Trademark Office Practices Committee's USPTO Subcommittee. INTA looks forward to working with the USPTO and providing further input as this process moves forward.

To summarize INTA's comments:

INTA appreciates the USPTO's efforts to continue to increase the number of applicants using electronic filing through the entire application process. While the proposed rulemaking acknowledges some exceptions to mandatory electronic filing, INTA is concerned it does not adequately acknowledge that there can be instances where an applicant/counsel's Internet access or availability is limited. Because access to the Internet or server issues can be out of an applicant's control and because accessibility affects important trademark rights, there should be another mechanism to ensure people have access to protect those rights without having to incur the uncertainty and/or additional fees/time associated with a separate Petition, which requires review and approval under less certain standards.

We would envision that with the high electronic filing statistics the instances of compromised access to online filing are relatively rare. Considering the importance of the rights involved, having another more predictable remedy in this situation would be desired by applicants, counsel and the USPTO. This may include a required Declaration or other statement with the relevant filing attesting to the outage, lack of access, etc. in order to ensure this option is only exercised in appropriate and rare circumstances. It may also include evidence of the problem, such as a screen shot, if circumstances permit. As the proposed rulemaking notes, given the inability to extend statutory deadlines, it is critical that applicants not be penalized when power, server or Internet access is compromised.

To ease the administrative burden on the USPTO when an access issue is encountered, and to add certainty for applicants/counsel as to permissible exceptions to electronic filing, any USPTO form or suggested language could acknowledge clear exceptions (e.g., internet outage, power

failure, etc. through use of a box to be checked), but for unusual or unique circumstances that could be more individualized, a free-form Petition approach could be utilized (for example, through use of an Other/free form text box).

### **Conclusion**

INTA looks forward to discussing this important proposal further with the USPTO and invites the USPTO to contact Deborah Cohn, Senior Director of Government Relations, at [dcohn@inta.org](mailto:dcohn@inta.org) with any questions about this submission.