

**From:** Shapiro, Mitchell W.  
**Sent:** Tuesday, September 02, 2008 7:25 PM  
**To:** ac27.comments  
**Subject:** Comments on Proposed Limitations on Facsimile Filing

Mail Stop Comments-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attention: Raul Tamayo, Esq.  
Legal Advisor, Office of Patent Legal Administration

Dear Mr. Tamayo:

These comments are submitted on behalf of myself, as well as colleagues at Miles & Stockbridge P.C.

The proposed limitations on facsimile filing are based, at least in part, on the availability of the EFS-Web system. While EFS-Web is a most useful tool, it is unfortunately subject to recurrent outages which render the system unavailable for filing papers electronically (indeed, we experienced another such outage just today). EFS-web may also be unavailable due to internet service interruptions beyond a practitioner's control. In such situations, facsimile filing has proved to be a convenient and effective backup to the EFS-web system.

It is therefore desirable to preserve the availability of facsimile filing, at least for those situations in which EFS-Web is unavailable. To allow for such situations, the Certificate of Facsimile Transmission could be modified to indicate that the sender attempted to file the correspondence by EFS-Web but was unable to do so. This would enable the Office to accomplish its objective to reduce facsimile filings, while preserving facsimile filing as a backup for practitioners when EFS-Web is not available.

Thank you for your consideration.

Respectfully submitted,

Mitchell W. Shapiro

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