

**From:** Jonathan Soifer

**Sent:** Friday, August 22, 2008 1:58 PM

**To:** ac27.comments

**Subject:** Comments Re Changes to Practice for Documents Submitted to the United States Patent and Trademark Office published in the Federal Register / Vol. 73, No. 152 Aug 6, 2008

I applaud the PTO's continued efforts to enhance the effectiveness and ease of use of the EFS-Web electronic filing system. Our office's reliance on, and use of, EFS-Web has increased substantially since EFS-Web was launched. Unfortunately, the EFS-Web system still experiences unexpected down time. In fact, the day I read this notice, I was able to file one document early in the day via EFS-Web, but was unable to file a second document via EFS-Web because the EFS-Web system was down. I thus resorted to filing the second document via facsimile transmission. The second document could not have been filed the next day - to do so would have entailed an extension of time fee.

Due to practitioners' ever increasing reliance on EFS-Web, often times a paper is filed *after* normal office hours and after the post office closes. Hence, on days when EFS-Web is down, applicants may be precluded from filing papers in their applications. The inability to file a paper could result in increased fees to applicants (via extension of time fees). More importantly, the inability to file a paper could result in abandonment of an application. Thus, it is suggested that the rule prohibiting facsimile transmissions of papers that can otherwise be filed via EFS-Web be modified to permit filing of papers via facsimile when EFS-Web is down. This exception could be coupled with a requirement that the filer certify that a filing via EFS-Web was attempted, but at the time of the attempted filing, EFS-Web was down.

Sincerely,

*Jonathan Soifer*

Jonathan P. Soifer, Reg. No. 34,932  
Polster Lieder Woodruff & Lucchesi, LC  
12412 Powerscourt Drive, Suite 200  
St. Louis, MO 63131  
Tel: 314-238-2400 ext. 432  
Fax: 314-238-2401  
e-mail: [JSoifer@patpro.com](mailto:JSoifer@patpro.com)

This message is from the law firm of Polster, Lieder, Woodruff & Lucchesi, L.C. and is intended for only the addressee. This message contains information that may be confidential and protected by the attorney-client privilege or attorney

work product privilege. Forwarding, printing, copying, distributing or using such information is prohibited. If you are not the addressee, promptly destroy this message and notify the sender of the delivery error by return e-mail or call us at 314-238-2400.