DEPARTMENT OF COMMERCE
Patent and Trademark Office
37 CFR Parts 2 and 7
[Docket No. 2004–T–037]
RIN 0651–AB78
New Mailing Addresses for Paper Submissions of Trademark-Related Correspondence and Madrid Protocol Rules Change
AGENCY: Patent and Trademark Office, Commerce.
ACTION: Final rule.
SUMMARY: The United States Patent and Trademark Office (‘‘Office’’) is amending its rules to provide for new mailing addresses for trademark-related correspondence submitted on paper. The Office is also amending some of the rules that govern the submission of documents pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (‘‘Madrid Protocol’’) in the United States. Specifically, the Office is: Removing the requirement that international applications, subsequent designations, responses to notices of irregularity issued by the International Bureau of the World Intellectual Property Organization (‘‘IB’’), and requests for transformation be filed through the Trademark Electronic Application System (‘‘TEAS’’); limiting the requirement that fees payable to the IB for international applications, subsequent designations, and requests to record changes of ownership in the International Register be paid at the time of submission only if the document is filed through TEAS; and designating new mailing addresses for trademark-related correspondence and paper-filed international applications, subsequent designations, responses to notices of irregularity, requests to record changes in the International Register, requests for transformation, and petitions to the Director to review an action of the Office’s Madrid Processing Unit (‘‘MPU’’).
DATES: Effective Date: October 4, 2004.
FOR FURTHER INFORMATION CONTACT: Cheryl L. Black, Office of the Commissioner for Trademarks, by telephone at (703) 308–8910, ext. 153, or by e-mail to cheryl.l.black@uspto.gov.
SUPPLEMENTARY INFORMATION:

Background
New Mailing Addresses for Paper Submissions of Trademark-Related Documents

The Office’s Trademark Operation, as well as its Trademark Trial and Appeal Board, are currently housed at 2900 Crystal Drive in Arlington, Virginia. It is expected that this move will commence on or about October 4, 2004, and will be completed on or about November 9, 2004. The Office is therefore amending § 2.190 to provide for new mailing addresses for all paper-filed trademark-related correspondence, except for requests to record documents in the Assignment Services Division and requests for copies of trademark documents.


Madrid Protocol Rules Changes

The Madrid Protocol is an international treaty that allows a trademark owner to seek registration in any of the countries and organizations that have joined the Protocol (‘‘Contracting Parties’’), by submitting a single international application. The international application must be based on a trademark application filed in or registration issued by the trademark office of one of the Contracting Parties (‘‘basic application’’ or ‘‘basic registration’’), and must be submitted to the IB through the trademark office of the Contracting Party in which the basic application or registration is held (‘‘Office of Origin’’). Before forwarding the international application to the IB, the Office of Origin must certify that the information in the international application corresponds to the information in the basic application or registration.


symbol “§” and a numbered heading; for example § 7.71 Delaware Water Gap National Recreation Area. (5) Is the description of the rule in the “Supplementary Information” section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240.

Drafting Information

The principal contributors to this proposed rulemaking are Joel Schwartz, Fee Collection Program Manager, and Brian McDonnell, Park Ranger, and Philip A. Selleck, Chief Ranger, Delaware Water Gap NRA.

List of Subjects in 36 CFR Part 7

District of Columbia, National parks, reporting and recordkeeping requirements.

For the reasons stated in the preamble, the National Park Service amends 36 CFR Part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under DC Code 8–137 (1981) and DC Code 40–721 (1981).

2. Section 7.71 is amended by revising paragraphs (e)(1)(i) through (vi) to read as follows:

§ 7.71 Delaware Water Gap National Recreation Area.

(e) Commercial Vehicle Fees.

(1) * * *

(i) Two-axle car, van or truck—$3
(ii) Two-axle vehicle with trailer—$5
(iii) Three-axle 6-wheeled vehicle—$8
(iv) Three-axle vehicle—$10
(v) Four-axle vehicle—$13
(vi) Five or more-axle vehicle—$18


Paul Hoffman.

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–21470 Filed 9–23–04; 8:45 am]

BILLING CODE 4312–JG–P

Wildlife and Parks.

Paul Hoffman,

Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240.

Drafting Information

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Paul Hoffman.

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–21470 Filed 9–23–04; 8:45 am]

BILLING CODE 4312–JG–P
The Office is revising § 2.190(a) to set forth a new mailing address for the following Madrid-related paper-filed documents: international applications under § 7.11; subsequent designations under § 7.21; responses to notices of irregularity under § 7.14; requests to record changes in the International Register under § 7.23 and § 7.24; requests for transformation under § 7.31; and petitions to the Director to review an action of the MPU.

The Office is adding a new § 7.4(c) to designate a location for hand delivery of international applications, subsequent designations, responses to notices of irregularity, requests to record changes in the International Register, requests for transformation, and petitions to the Director to review an action of the MPU.

The Office is adding a new § 7.4(d), to prohibit the use of facsimile transmission to file international applications, subsequent designations, responses to notices of irregularity, requests for transformation, and requests to record changes in the International Register.

The Office is revising § 7.7(a) to provide that the certificate of mailing or transmission procedure described in § 2.197(a)(1) does not apply to international applications, subsequent designations, responses to notices of irregularity, requests for transformation, and requests to record changes in the International Register. This is consistent with the revision to § 2.197(a)(2), discussed above.

The Office is revising § 7.7(c) to provide that fees for international applications, subsequent designations, and requests to record changes of ownership may be paid to the IB through the Office only when the documents are filed through TEAS. At present, the Office is unable to process international fees for paper filings.

The Office is adding a new § 7.7(d). The Office is revising § 7.11(a) to remove the requirement that an international application be filed through TEAS and to permmit the filing of an international application either through TEAS, or on the official paper form issued by the IB, currently available on the IB’s Web site at http://www.wipo.int/madrid. Inasmuch as deployment of the TEAS form has been delayed due to unforeseen technical difficulties, international applications must be filed on paper until the TEAS form is posted on the Office’s Web site. When the TEAS form is posted, applicants will have the option to file international applications either on paper or through TEAS.

Revised § 7.11(a) requires that an international application filed on paper be presented on the official paper form issued by the IB, currently available on the IB’s Web site at http://


References below to “the Act,” “the Trademark Act,” or “the statute” refer to the Trademark Act of 1946, 15 U.S.C. 1051, et seq., as amended.

Discussion of Specific Rules

The Office is amending rules 2.190, 2.195, 2.197, 7.4, 7.7, 7.11, 7.14, 7.21, 7.23, 7.25, and 7.31.

The Office is revising § 2.190(a) to set forth a new mailing address for all paper-filed trademark-related correspondence (except requests to record documents in the Assignment Services Division, requests for copies of trademark documents, and certain documents filed pursuant to the Madrid Protocol), and adding a new § 2.190(e) to set forth a new mailing address for international applications, subsequent designations, responses to notices of irregularity, requests to record changes in the International Register, requests for transformation, and petitions to the Director to review an action of the MPU.
www.wipo.int/madrid. MM2 is the official IB form for an application for international registration under the Madrid Protocol. The IB does not accept paper applications that are not presented on the official IB form. The form cannot be handwritten. Madrid Protocol Article 3(1); Common Regs. 9(2)(a) and 11(4)(a)(i). When submitting an international application on paper, applicants should complete the official form online, print the completed form, and submit it to the Office. For instructions on completing the IB’s official international application form, see the IB’s Guide at B.II.07.01–20.11.

The Office is revising § 7.11(a)(3) by breaking it into subsections 7.11(a)(3)(i) through 7.11(a)(3)(iii), for purposes of clarity.

The Office is adding a new § 7.11(a)(3)(iv), to require, for international applications filed on paper, that the depiction of the mark appear no larger than 3.15 inches (8 cm) high by 3.15 inches (8 cm) wide, and that the mark be placed in the box designated by the IB on the IB’s official form. This is required by Common Reg. 9(4)(a)(v). The size requirement is consistent with the size requirement of § 2.54(b) as prescribed in § 7.19.

The Office is revising § 7.11(a)(9) to delete reference to fees payable to the IB for international applications. These fees are provided for in new § 7.11(a)(10).

The Office is redesignating § 7.11(a)(10) as § 7.11(a)(11) and revising it to provide that if an international application is filed through TEAS, in order to be accorded a date of receipt in the Office it must include the international application fees for all classes, and the fees for all designated Contracting Parties identified in the application. This application does not apply to international applications filed on paper. Under new § 7.7(c), international fees for paper applications must be paid directly to the IB, and may be paid either before or after submission of the international application to the Office. However, fees paid after the international application is received by the IB could result in a notice of irregularity. The requirement in § 7.11(a)(9) that the U.S. certification fee required by § 7.6 be paid at the time of submission in order to obtain a date of receipt applies to both TEAS and paper applications.

The Office is redesignating § 7.11(a)(11) as § 7.11(a)(12), and revising it to provide that an e-mail address for correspondence is required only when the international application is filed through TEAS. The inclusion of an e-mail address in paper applications is encouraged, but not mandatory. The Office is revising § 7.14(e) to remove the requirement that a response to a notice of irregularity issued by the IB be filed through TEAS. Deployment of the TEAS form has been delayed due to unforeseen technical difficulties. Until the TEAS form is available, responses to notices of irregularity must be filed on paper. When the TEAS form is operational, applicants will have the option to file responses either on paper or through TEAS.

The Office is revising § 7.21(b) to remove the requirement that a subsequent designation be submitted through TEAS, and permit the submission of a subsequent designation either through TEAS or on the official paper form issued by the IB. Deployment of the TEAS form has been delayed due to unforeseen technical difficulties. Until the TEAS form is available, subsequent designations must be filed on paper. When the TEAS form is posted, holders will have the option to file subsequent designations either on paper or through TEAS.

Revised § 7.21(b) requires that a subsequent designation filed on paper be presented on the official paper form issued by the IB, currently available on the IB’s Web site at http://www.wipo.int/madrid. MM4 is the official IB form for a designation subsequent to the international registration under the Madrid Protocol. The IB does not accept paper subsequent designations that are not presented on the official IB form. The form cannot be handwritten. Madrid Protocol Article 3(3); Common Reg. 24(2)(b). When submitting a subsequent designation on paper, the holder should complete the official form online, print the completed form, and submit it to the Office. Completed subsequent designations may also be filed directly at the IB. The IB’s Guide contains instructions for completing the subsequent designation form, at B.II.43.01–44.03.

The Office is revising § 7.21(b)(7) to delete reference to subsequent designation fees payable to the IB. These fees are provided for in new § 7.21(a)(8).

The Office is revising § 7.21(a)(8) to provide that a subsequent designation filed through TEAS must include the subsequent designation fees payable to the IB in order to obtain a date of receipt in the Office. This requirement does not apply to subsequent designations filed on paper. Under new § 7.7(c), fees for paper subsequent designations must be paid directly to the IB, and may be paid either before or after submission of the subsequent designation to the Office. However, fees paid after the subsequent designation is received by the IB could result in a notice of irregularity. The requirement that the U.S. transmittal fee required by § 7.6 be paid at the time of submission in order to obtain a date of receipt remains unchanged for paper subsequent designations.

The Office is redesignating § 7.21(b)(8) as § 7.21(b)(9), and revising it to provide that an e-mail address for correspondence is required only if the subsequent designation is filed through TEAS. The inclusion of an e-mail address in a paper subsequent designation is encouraged, but not mandatory.

The Office is revising § 7.23(a)(8) to remove the requirement that a request to record a change of ownership include the recording fee required by the IB. The Office currently does not have an electronic form available for requests to record changes of ownership, and cannot process the international fees for paper filings. Therefore, under § 7.7(c), if a request to record a change of ownership is submitted on paper, the fee must be paid directly to the IB, and may be paid either before or after submission of the request to the Office. However, fees paid after the request is received by the IB could result in a notice of irregularity. The requirement that the U.S. transmittal fee required by § 7.6 be paid at the time the request is submitted remains unchanged.

The Office is revising § 7.25(a) to delete the designation of § 2.172 as a section of part 2 of this chapter that does not apply to registered extensions of protection of international registrations to the United States. This will allow parties to file requests to surrender registered extensions of protection of an international registration to the United States either directly with the IB or with the Office. If the request to surrender is filed through the Office, the Office will notify the IB of the surrender.

The Office is amending § 7.31(a) to delete the requirement that a request for transformation be filed through TEAS. The Office currently does not have a TEAS form available for requests for transformation. Until the TEAS form is available on the Office’s Web site, requests for transformation must be filed on paper. When the TEAS form is operational, holders will be able to file requests for transformation either on paper or through TEAS.

Rule Making Requirements

Administrative Procedure Act

This final rule merely involves rules of agency practice and procedure within
the meaning of 5 U.S.C. 553(b)(A), as it merely provides new mailing addresses for certain trademark-related correspondence and eliminates certain existing procedural requirements related to filings under the Madrid Protocol that were waived pursuant to a notice published at 68 FR 74479 (Dec. 24, 2003) and incorporates agency procedure and practice to implement the changes therein. Therefore, this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

Regulatory Flexibility Act

The changes in this final rule merely: (1) Set forth the mailing addresses that should be used for mailing certain trademark-related correspondence to the Office; and (2) incorporate agency procedures and practice put in place to ensure compliance with a notice published at 68 FR 74479 (Dec. 24, 2003) eliminating certain existing requirements for trademark-related filings under the Madrid Protocol. This final rule package does not impose any new fees on members of the public, and the new fees on members of the public, and the final rule package does not impose any transformation. The applicant/holder need not refile these applications under §7.14, and requests for transformation under §7.31. This final rule removes the requirement that these forms be filed electronically, and instead permits filing either electronically or on paper. The time estimates include the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments are invited on: (1) Whether the collection of information is necessary for proper performance of the functions of the agency, (2) the accuracy of the agency’s estimate of the burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information to respondents.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202–3514 (Attn: Ari Leifman), and to the Office of Information and Regulatory Affairs, OMB, 725 17th Street, NW., Washington, DC 20503 (Attn: USPTO Desk Officer).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information related to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects

37 CFR Part 2
Administrative practice and procedure, Trademarks.

37 CFR Part 7
Administrative practice and procedure, Trademarks.

For the reasons given in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office is amending parts 2 and 7 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

1. Amend §2.190 by revising paragraph (a) and adding a new paragraph (e) to read as follows:
§ 2.190 Addresses for trademark correspondence with the United States Patent and Trademark Office.

(a) Trademark correspondence. In general. All trademark-related documents filed on paper, except documents sent to the Assignment Services Division for recordation, requests for copies of trademark documents, and certain documents filed under the Madrid Protocol as specified in paragraph (e) of this section, should be addressed to: Commissioner for Trademarks, PO Box 1451, Alexandria, VA 22313-1451.

2.197 Certificate of mailing or transmission.

(a) Trademark correspondence. In general. All trademark-related documents filed on paper, except documents sent to the Assignment Services Division for recordation, requests for copies of trademark documents, and certain documents filed under the Madrid Protocol as specified in paragraph (e) of this section, should be addressed to: Commissioner for Trademarks, PO Box 1451, Alexandria, VA 22313-1451.

2.195 Receipt of trademark correspondence.

* * * * *

(d) * * * *

(3) Correspondence to be filed with the Trademark Trial and Appeal Board, except notices of ex parte appeal;

(4) Requests for cancellation or amendment of a registration under section 7(e) of the Trademark Act; and certificates of registration surrendered under section 7(e) of the Trademark Act; and


* * * * *

2.197 Certificate of mailing or transmission.

(a) * * *

(2) The procedure described in paragraph (a)(1) of this section does not apply to:

(i) Applications for the registration of marks under 15 U.S.C. 1051 or 1126; and


* * * * *

PART 7—RULES OF PRACTICE IN FILINGS PURSUANT TO THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

4. Revise § 7.4 to read as follows:

§ 7.4 Receipt of correspondence.

(a) Correspondence Filed Through TEAS. Correspondence relating to international applications and registrations and requests for extension of protection submitted through TEAS will be accorded the date and time on which the complete transmission is received in the Office based on Eastern Time. Eastern Time means eastern standard time or eastern daylight time, as appropriate.

(b) Correspondence Filed By Mail. International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office’s Madrid Processing Unit, when filed by mail, must be addressed to: Commissioner for Trademarks, PO Box 16471, Arlington, VA 22215–1471, Attention MPU.

2. Amend § 2.195 by revising paragraphs (d)(3) and (d)(4), and adding a new paragraph (d)(5) to read as follows:

§ 2.195 Receipt of trademark correspondence.

* * * * *

(d) * * * *

(3) Correspondence to be filed with the Trademark Trial and Appeal Board, except notices of ex parte appeal;

(4) Requests for cancellation or amendment of a registration under section 7(e) of the Trademark Act; and certificates of registration surrendered for cancellation or amendment under section 7(e) of the Trademark Act; and


* * * * *

3. Amend § 2.197 by revising paragraph (a)(2) to read as follows:

§ 2.197 Certificate of mailing or transmission.

(a) * * *

(2) The procedure described in paragraph (a)(1) of this section does not apply to:

(i) Applications for the registration of marks under 15 U.S.C. 1051 or 1126; and


* * * * *

7.31 of this title.

§ 2.198 of this title, in which case they will be

* * * * *

5. Amend § 7.7 by revising paragraph (a) introductory text, redesignating paragraph (c) as paragraph (d), and adding a new paragraph (c) to read as follows:

§ 7.7 Payments of fees to International Bureau.

(a) For documents filed through TEAS, the following fees may be paid either directly to the International Bureau or through the Office:

* * * * *

(c) All fees for paper filings must be paid directly to the International Bureau.

(d) The International Bureau fee calculator may be viewed on the web site of the World Intellectual Property Organization, currently available at: http://www.wipo.int/madrid/en/.

6. Amend § 7.11 by revising paragraphs (a), introductory text (a)(3), (a)(9), (a)(10) and (a)(11), and adding a new paragraph (a)(12) to read as follows:

§ 7.11 Requirements for international application originating from the United States.

(a) The Office will grant a date of receipt to an international application that is either filed through TEAS, or typed on the official paper form issued by the International Bureau. The
international application must include all of the following:

* * * * *

(3) A reproduction of the mark that is the same as the mark in the basic application and/or registration and that meets the requirements of § 2.52 of this title.

(i) If the mark in the basic application and/or registration is depicted in black and white and the basic application or registration does not include a color claim, the reproduction of the mark in the international application must be black and white.

(ii) If the mark in the basic application or registration is depicted in black and white and includes a color claim, the international application must include both a black and white reproduction of the mark and a color reproduction of the mark.

(iii) If the mark in the basic application and/or registration is depicted in color, the reproduction of the mark in the international application must be in color.

(iv) If the international application is filed on paper, the mark must be no more than 3.15 inches (8 cm) high by 3.15 inches (8 cm) wide, and must appear in the box designated by the International Bureau on the International Bureau’s official form;

* * * * *

(9) The certification fee required by § 7.6;

(10) If the application is filed through TEAS, the international application fees for all classes, and the fees for all designated Contracting Parties identified in the international application (see § 7.7);

(11) A statement that the applicant is entitled to file an international application in the Office, specifying that applicant: is a national of the United States; has a domicile in the United States; or has a real and effective industrial or commercial establishment in the United States. Where an applicant’s address is not in the United States, the applicant must provide the address of its U.S. domicile or establishment; and

(12) If the international application is filed through TEAS, an e-mail address for receipt of correspondence from the Office.

* * * * *

§ 7.21 Subsequent designation.

* * * * *

(b) The Office will grant a date of receipt to a subsequent designation that is either filed through TEAS, or typed on the official paper form issued by the International Bureau. The subsequent designation must contain all of the following:

* * * * *

(7) The U.S. transmittal fee required by § 7.6;

(8) If the subsequent designation is filed through TEAS, the subsequent designation fees (see § 7.7); and

(9) If the subsequent designation is filed through TEAS, an e-mail address for receipt of correspondence from the Office.

* * * * *

§ 7.23 Requests for recording assignments at the International Bureau.

* * * * *

(8) The U.S. transmittal fee required by § 7.6.

* * * * *

§ 7.25 Sections of part 2 applicable to extension of protection.

(a) Except for §§ 2.130–2.131, 2.160–2.166, 2.168, 2.173, 2.175, 2.181–2.186, and 2.197, all sections in part 2 of this chapter and all sections of part 10 of this chapter apply to a request for extension of protection of an international registration to the United States, including sections related to proceedings before the Trademark Trial and Appeal Board, unless stated otherwise.

* * * * *

§ 7.31 Requirements for transformation of an extension of protection to the United States into a U.S. application.

* * * * *

(a) The holder of the international registration must file a request for transformation within three months of the date of cancellation of the international registration and include:

* * * * *


Jon W. Dudas,
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 04–21476 Filed 9–23–04; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62


Approval and Promulgation of State Plans for Designated Facilities; New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a negative declaration submitted by the State of New Jersey. The negative declaration fulfills EPA’s promulgated Emission Guidelines for existing commercial and industrial solid waste incinerator (CISWI) sources. In accordance with the Emission Guidelines, states are not required to submit a plan to implement and enforce the Emission Guidelines if there are no existing CISWI sources in the state and if it submits a negative declaration letter in place of the State Plan.

DATES: This rule will be effective October 25, 2004.

ADDRESSES: Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket, Room B–108, 1301