



**Intellectual
Property
Owners
Association**

April 29, 2008

Hon. Jon Dudas
Under Secretary of Commerce for Intellectual Property and
Director of the U.S. Patent and Trademark Office (USPTO)
Mail Stop Comments— Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

ATTN: Mary Hannon

Submitted by email to: tmmailingrules@uspto.gov

**Re: IPO Comments on Changes in Rules Regarding Filing Trademark
Correspondence by Express Mail or Under a Certificate of Mailing or
Transmission, 73 Fed. Reg. 11079 (February 29, 2008)**

Dear Director Dudas:

IPO welcomes the opportunity to comment on the proposed rules that would amend 37 C.F.R. 2.197 and 2.198.

IPO is a trade association representing owners of patents, trademarks copyrights and trade secrets in all industries and fields of technology. Our current membership includes more than 250 companies and 10,000 individuals involved in IPO through their companies or in other member classes.

The proposed rule changes would eliminate the current express mail and certificate of mailing procedures for all trademark filings for which a form is available in the USPTO's Trademark Electronic Application System ("TEAS"). IPO is a strong advocate for the "paperless" filing of trademark documents and understands that approximately 90% of all correspondence with the USPTO is currently filed electronically.

Although computers have benefited trademark practice greatly by speeding communication and providing easy access to information that was previously difficult to obtain, computer mishaps still occur and it is often beneficial to provide low tech back-up procedures. The express mail and certificate of mailing procedures provide trademark practitioners with an important safeguard by which they can obtain a filing date when electronic filing is difficult or impractical. For example, these procedures can be, and are, utilized by practitioners experiencing difficulties with their computer or network or encountering problems with the USPTO website. Although the USPTO Rules do provide mechanisms for obtaining a filing date when the TEAS system is down, these procedures are not available for other potential technical and computer problems that may be encountered. In those instances, practitioners may be forced to pay for and file a formal petition to revive an application, thereby increasing the administrative burden on the USPTO and practitioners.

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Additionally, the proposed changes could have a significant impact on those who may be less familiar with the USPTO's electronic filing system, including pro se applicants and registrants, foreign applicants and registrants, and practitioners who do not specialize in trademark law. Also, practitioners outside the Washington, D.C. area would not have the option of a paper filing, while those in Washington, D.C. would still have the option of hand delivery for filings. Further, those outside the U.S. Eastern Time zone may not have the option of working with the TEAS helpdesk in instances when they are experiencing computer problems or difficulties with the TEAS system outside U.S. Eastern Time business hours.

We believe the potential hardships would outweigh the administrative benefits brought about by a slight increase in electronic filings. Given the relatively small number of such filings and the importance of providing an alternate means for obtaining a filing date through "paper filing" procedures, IPO opposes the proposed changes.

Thank your for your consideration of our views.

Sincerely,

A handwritten signature in cursive script that reads "Steven W. Miller". The signature is written in dark ink and is positioned above the printed name and title.

Steven W. Miller
President