

or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied by a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mailing date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the Certificate of Mailing or Transmission procedure under §1.8 or the Express Mail procedure under §1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit with the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of the resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patents should also state the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.

(b) When the letter concerns a patent other than for purposes of paying a maintenance fee, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention. For letters concerning payment of a maintenance fee in a patent, see the provisions of §1.366(c).

(c) A letter relating to a trademark application should identify it as such and by the name of the applicant and the serial number and filing date of the application. A letter relating to a reg-

istered trademark should identify it by the name of the registrant and by the number and date of the certificate.

(d) A letter relating to a reexamination proceeding should identify it as such by the number of the patent undergoing reexamination, the reexamination request control number assigned to such proceeding and, if known, the group art unit and name of the examiner to which it has been assigned.

(e) When a paper concerns an interference, it should state the names of the parties and the number of the interference. The name of the examiner-in-chief assigned to the interference (§1.610) and the name of the party filing the paper should appear conspicuously on the first page of the paper.

(f) When a paper concerns a provisional application, it should identify the application as such and include the application number.

(Pub. L. 94-131, 89 Stat. 685; 35 U.S.C. 6, Pub. L. 97-247)

[24 FR 10332, Dec. 22, 1959, as amended at 46 FR 29181, May 29, 1981; 49 FR 552, Jan. 4, 1984; 49 FR 48451, Dec. 12, 1984; 53 FR 47807, Nov. 28, 1988; 58 FR 54501, Oct. 22, 1993; 61 FR 42802, Aug. 19, 1996; 61 FR 56446, Nov. 1, 1996]

§ 1.6 Receipt of correspondence.

(a) *Date of receipt and Express Mail date of deposit.* Correspondence received in the Patent and Trademark Office is stamped with the date of receipt except as follows:

(1) The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday or Federal holiday within the District of Columbia. Except for correspondence transmitted by facsimile as provided for in paragraph (a)(3) of this section, no correspondence is received in the Patent and Trademark Office on Saturdays, Sundays or Federal holidays within the District of Columbia.

(2) Correspondence filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service.

(3) Correspondence transmitted by facsimile to the Patent and Trademark Office will be stamped with the date on

which the complete transmission is received in the Patent and Trademark Office unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia, in which case the date stamped will be the next succeeding day which is not a Saturday, Sunday, or Federal holiday within the District of Columbia.

(b) *Patent and Trademark Office Post Office pouch.* Mail placed in the Patent and Trademark Office pouch up to midnight on any day, except Saturdays, Sundays and Federal holidays within the District of Columbia, by the post office at Washington, DC, serving the Patent and Trademark Office, is considered as having been received in the Patent and Trademark Office on the day it was so placed in the pouch by the U.S. Postal Service.

(c) *Correspondence delivered by hand.* In addition to being mailed, correspondence may be delivered by hand during hours the Office is open to receive correspondence.

(d) *Facsimile transmission.* Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The receipt date accorded to the correspondence will be the date on which the complete transmission is received in the Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia. See § 1.6(a)(3). To facilitate proper processing, each transmission session should be limited to correspondence to be filed in a single application or other proceeding before the Patent and Trademark Office. The application number of a patent or trademark application, the control number of a reexamination proceeding, the interference number of an interference proceeding, the patent number of a patent, or the registration number of a trademark should be entered as a part of the sender's identification on a facsimile cover sheet. Facsimile transmissions are not permitted and if submitted, will not be accorded a date of receipt, in the following situations:

- (1) Correspondence as specified in § 1.4(e), requiring an original signature;
- (2) Certified documents as specified in § 1.4(f);

(3) Correspondence which cannot receive the benefit of the certificate of mailing or transmission as specified in § 1.8(a)(2)(i) (A) through (D) and (F), § 1.8(a)(2)(ii)(A), and § 1.8(a)(2)(iii)(A), except that a continued prosecution application under § 1.53(d) may be transmitted to the Office by facsimile;

(4) Drawings submitted under §§ 1.81, 1.83 through 1.85, 1.152, 1.165, 1.174, 1.437, 2.51, 2.52, or 2.72;

(5) A request for reexamination under § 1.510;

(6) Correspondence to be filed in a patent application subject to a secrecy order under §§ 5.1 through 5.5 of this chapter and directly related to the secrecy order content of the application;

(7) Requests for cancellation or amendment of a registration under section 7(e) of the Trademark Act, 15 U.S.C. 1057(e); and certificates of registration surrendered for cancellation or amendment under section 7(e) of the Trademark Act, 15 U.S.C. 1057(e);

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

(9) Correspondence to be filed in an interference proceeding which consists of a preliminary statement under § 1.621; a transcript of a deposition under § 1.676 or of interrogatories, cross-interrogatories, or recorded answers under § 1.684(c); or an evidentiary record and exhibits under § 1.653.

(e) *Interruptions in U.S. Postal Service.* If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:

(1) Promptly filed after the ending of the designated interruption or emergency; and

(2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

(f) *Facsimile transmission of a patent application under § 1.53(d).* In the event that the Office has no evidence of receipt of an application under § 1.53(d) (a continued prosecution application) transmitted to the Office by facsimile

transmission, the party who transmitted the application under § 1.53(d) may petition the Commissioner to accord the application under § 1.53(d) a filing date as of the date the application under § 1.53(d) is shown to have been transmitted to and received in the Office,

(1) Provided that the party who transmitted such application under § 1.53(d):

(i) Informs the Office of the previous transmission of the application under § 1.53(d) promptly after becoming aware that the Office has no evidence of receipt of the application under § 1.53(d);

(ii) Supplies an additional copy of the previously transmitted application under § 1.53(d); and

(iii) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous transmission of the application under § 1.53(d) and is accompanied by a copy of the sending unit's report confirming transmission of the application under § 1.53(d) or evidence that came into being after the complete transmission and within one business day of the complete transmission of the application under § 1.53(d).

(2) The Office may require additional evidence to determine if the application under § 1.53(d) was transmitted to and received in the Office on the date in question.

[58 FR 54501, Oct. 22, 1993; 58 FR 64154, Dec. 6, 1993; 61 FR 56447, Nov. 1, 1996; 62 FR 53180, Oct. 10, 1997]

§ 1.7 Times for taking action: Expiration on Saturday, Sunday or Federal holiday.

Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Saturday, Sunday, or a Federal holiday. See § 1.304 for

time for appeal or for commencing civil action.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2707, Jan. 20, 1983; 48 FR 4285, Jan. 31, 1983]

§ 1.8 Certificate of mailing or transmission.

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

(2) The procedure described in paragraph (a)(1) of this section does not apply to, and no benefit will be given to a Certificate of Mailing or Transmission on the following:

(i) *Relative to Patents and Patent Applications—*

(A) The filing of a national patent application specification and drawing or other correspondence for the purpose of obtaining an application filing date, including a request for a continued prosecution application under § 1.53(d);

(B) The filing of correspondence in an interference which an examiner-in-chief orders to be filed by hand or "Express Mail";

(C) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);