

§ 1.645 Extension of time, late papers, stay of proceedings.

(a) Except to extend the time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action, a party may file a motion (§ 1.635) seeking an extension of time to take action in an interference. See § 1.304(a) for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action. The motion shall be filed within sufficient time to actually reach the administrative patent judge before expiration of the time for taking action. A moving party should not assume that the motion will be granted even if there is no objection by any other party. The motion will be denied unless the moving party shows good cause why an extension should be granted. The press of other business arising after an administrative patent judge sets a time for taking action will not normally constitute good cause. A motion seeking additional time to take testimony because a party has not been able to procure the testimony of a witness shall set forth the name of the witness, any steps taken to procure the testimony of the witness, the dates on which the steps were taken, and the facts expected to be proved through the witness.

(b) Any paper belatedly filed will not be considered except upon notion (§ 1.635) which shows good cause why the paper was not timely filed, or where an administrative patent judge or the Board, *sua sponte*, is of the opinion that it would be in the interest of justice to consider the paper. See § 1.304(a) for exclusive procedures relating to belated filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or belated commencement of a civil action.

(c) The provisions of § 1.136 do not apply to time periods in interferences.

(d) An administrative patent judge may stay proceedings in an interference.

[49 FR 48455, Dec. 12, 1984, as amended at 54 FR 29553, July 13, 1989; 60 FR 14527, Mar. 17, 1995]

§ 1.646 Service of papers, proof of service.

(a) A copy of every paper filed in the Patent and Trademark Office in an interference or an application or patent involved in the interference shall be served upon all other parties except:

(1) Preliminary statements when filed under § 1.621; preliminary statements shall be served when service is ordered by an administrative patent judge.

(2) Certified transcripts and exhibits which accompany the transcripts filed under § 1.676; copies of transcripts shall be served as part of a party's record under § 1.653(c).

(b) Service shall be on an attorney or agent for a party. If there is no attorney or agent for the party, service shall be on the party. An administrative patent judge may order additional service or waive service where appropriate.

(c) Unless otherwise ordered by an administrative patent judge, or except as otherwise provided by this subpart, service of a paper shall be made as follows:

(1) By handing a copy of the paper or causing a copy of the paper to be handed to the person served.

(2) By leaving a copy of the paper with someone employed by the person at the person's usual place of business.

(3) When the person served has no usual place of business, by leaving a copy of the paper at the person's residence with someone of suitable age and discretion then residing therein.

(4) By mailing a copy of the paper by first class mail; when service is by first class mail the date of mailing is regarded as the date of service.

(5) By mailing a copy of the paper by Express Mail; when service is by Express Mail the date of deposit with the U.S. Postal Service is regarded as the date of service.

(6) When it is shown to the satisfaction of an administrative patent judge that none of the above methods of obtaining or serving the copy of the paper was successful, the administrative patent judge may order service by publication of an appropriate notice in the *Official Gazette*.