

**COMMENTS ON PROPOSED RULE MAKING:
Changes To Support Implementation of the United States Patent and
Trademark Office 21st Century Strategic Plan**

Submitted On behalf of:
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Responsive to the notice appearing in the Federal Register at Volume 68, Number 177, dated September 12, 2003, at pages 53816-53859, the National Association of Patent Practitioners (NAPP) hereby submits its written comments.

Our Organization

The NAPP is a nonprofit organization dedicated to supporting patent practitioners and other individuals working in the field of patent law, in matters relating to patent law, its practice, and technological advances. Seventy-five percent (75%) of our members are registered patent practitioners whose practice is directed primarily toward patent prosecution. As part of our mission, we aim to create a collective, nationwide voice to respond to proposed changes in the patent statutes, rules, and PTO operations with a view to their impact on patent prosecution practice and the American inventor community. With this in mind, we appreciate the opportunity to provide our comments and suggestions on this important matter.

Specific Comments

37 CFR § 1.4(d)(1)(iv)(A)

This section permits an applicant to submit documents to the PTO which have been electronically signed in a specified format. The NAPP is concerned that an applicant's failure to adhere to the electronic signature format may cause the document to be treated as an unsigned document, resulting in possible abandonment of the application. Although proposed §1.4(h) permits the Office to require ratification or confirmation of a signature, for clarification, we recommend that, where the form of signature is not correct, the PTO would notify applicant of the status of the application and give applicant a 1-month time period in which to ratify the document to meet the electronic signature requirements. Otherwise, applications may become unintentionally abandoned based on simple formatting errors such as placing a back slash in the wrong place, or using a back slash in place of a forward slash.

37 CFR § 1.10(i)

The PTO proposes to add a provision that any person attempting to file by Express Mail who was unable to deposit the correspondence due to an interruption or emergency in "Express Mail" service, which has been so designated by the Director, may petition the Director to consider such correspondence as filed on the date the applicant attempted to file. It appears that

the "designated by the Director" language is applicable to a national emergency situation, but fails to address local emergency situations such as strikes, severe weather, power outages, fire, Acts of God, etc. Therefore, the NAPP proposes that the language read, "Any person attempting to file correspondence by Express Mail who was unable to deposit the correspondence due to any emergency or interruption of "Express Mail" service may petition the Director to consider such correspondence as filed on the date the applicant attempted to file."

Section 1.10(g) merely addresses the situation where an applicant has attempted to file correspondence and that the USPS has returned the correspondence. Therefore, this section does not meet the needs of applicants who have attempted to file but were unable to because of a local emergency (such as the recent hurricane, Isabel) that interrupted local mail delivery only.

Conclusion

In general, the NAPP approves the proposed rule package and believes that adoption of the rule changes will lead to increased efficiency in the PTO. However, the NAPP would like the PTO to consider its recommendations with respect to notifying the applicant when the electronic signature requirement has not been met and permitting the applicant one month to ratify. In addition, section 1.10(i) should address situations where an applicant has a local emergency situation (such as Hurricane Isabel) and is unable to deposit with the USPS because the local post offices are closed.

Thank you for consideration of our comments.

Respectfully Submitted,

The National Association of Patent Practitioners
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