deviation, call or email Jim Wetherington, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The BNSF Railway Company requested a temporary deviation from the normal operation of the drawbridge in order to perform the installation of new generators and the removal of the old festoon cable. These repairs and scheduled maintenance are necessary for the continued operation of the bridge. This deviation allows the draw of the Morgan City (Berwick Bay) Railroad Bridge across the Atchafalaya River, mile 17.5 (Gulf Intracoastal Waterway (Morgan City-Port Allen Alternate Route) mile 0.3), to remain closed to navigation for four consecutive hours in the morning and three hours in the afternoon with an opening in the middle to pass vessels. The deviation is effective from 7 a.m. to 11 a.m. and then again from 1 p.m. through 4 p.m. daily from January 26 through January 31, 2015.

Broadcast Notice to Mariners will be used to update mariners of any changes in this deviation.

The bridge has a vertical clearance of 4 feet above high water in the closed-to-navigation position and 73 feet above high water in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, oil industry related work boats and crew boats, commercial fishing vessels and some recreational craft. In accordance with 33 CFR 117.5, the draw of the bridge shall open on signal. The Morgan City-Port Allen Landside route through Amelia, LA is the alternate route.

BNSF and the Coast Guard have coordinated the closure with waterway users, industry, and other Coast Guard units. This date and this schedule were chosen to minimize the significant effects on vessel traffic.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 9, 2015.

David M. Frank,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2015–00592 Filed 1–15–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–1073]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, Galveston, TX

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Galveston Causeway Railroad Vertical Lift Bridge across the Gulf Intracoastal Waterway, mile 357.2 west of Harvey Locks, at Galveston, Galveston County, Texas. The deviation is necessary in order to conduct maintenance on the bridge. This deviation allows the bridge to remain temporarily closed to navigation for 5 hours on two consecutive days during day light hours and will operate normally at all other times.

DATES: This deviation is effective from 7 a.m. through noon, daily, on February 2 and February 3, 2015.

ADDRESSES: The docket for this deviation, [USCG–2014–1073] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Jim Wetherington, Bridge Administration Branch, Coast Guard; telephone 504–671–2128, email *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The BNSF Railway Company requested a temporary deviation from the operating schedule of the Galveston Causeway Railroad Vertical Lift Bridge across the Gulf Intracoastal Waterway, mile 357.2 west of Harvey Locks, at Galveston, Galveston County, Texas.

The bridge has a vertical clearance of 8.0 feet above mean high water, elevation 3.0 feet NAVD88, in the closed-to-navigation position and 73 feet above mean high water in the open-to-navigation position. In accordance with 33 CFR 117.5, the draw shall open on signal for the passage of vessels.

This temporary deviation allows the vertical lift bridge to remain closed to navigation from 7 a.m. through noon, daily, February 2 and February 3, 2015. During this time, the bridge owner will complete tie replacement, surfacing, and signal work. If the vessel can safely pass without an opening, the vessel may pass at the slowest safe speed. The bridge can open in case of emergency.

Navigation at the site of the bridge consists mainly of tows with barges and some recreational pleasure craft. Based on known waterway users, as well as coordination with those waterway users, it has been determined that this closure will not have a significant effect on these vessels. No alternate routes are available.

In accordance with 33 CFR 117.35, the draw bridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation.

This deviation from the operating regulations is authorized under 33 CFR 117.35

Dated: January 9, 2015.

David M. Frank,

Bridge Administrator, Eighth Coast Guard District.

[FR Doc. 2015–00593 Filed 1–15–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 2, 6, and 7

[Docket No. PTO–T–2013–0026]

RIN 0651–AC88

Miscellaneous Changes to Trademark Rules of Practice and the Rules of Practice in Filings Pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (''Office'') is revising the Trademark Rules of Practice and the Rules of Practice in Filings Pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to benefit the

public by providing greater clarity as to certain requirements relating to representation before the Office, applications for registration, examination procedures, amendment of applications, publication and post publication procedures, appeals, petitions, post registration practice, correspondence in trademark cases, classification of goods and services, and procedures under the Madrid Protocol. For the most part, the rule changes are intended to codify existing practice.

DATES: This rule is effective February 17, 2015.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by email at *TMPolicy@uspto.gov,* or by telephone at (571) 272–8742.

SUPPLEMENTARY INFORMATION:

Executive Summary: Purpose: The rule changes benefit the public by providing more comprehensive and specific guidance regarding certain requirements relating to representation before the Office, applications for registration, examination procedures, amendment of applications, publication and post publication procedures, appeals, petitions, post registration practice, correspondence in trademark cases, classification of goods and services, and procedures under the Madrid Protocol. For the most part, the rule changes codify existing practice.

Summary of Major Provisions: As stated above, the Office is revising the rules in parts 2, 6, and 7 of title 37 of the Code of Federal Regulations to codify current Office practice and provide sufficient detail regarding miscellaneous requirements relating to representation before the Office, applications for registration, examination procedures, amendment of applications, publication and post publication procedures, appeals, petitions, post registration practice, correspondence in trademark cases, classification of goods and services, and procedures under the Madrid Protocol.

Costs and Benefits: This rulemaking is not economically significant under Executive Order 12866 (Sept. 30, 1993).

Proposed Rule and Request for Comments:

A proposed rule was published in the **Federal Register** on January 23, 2014, at 79 FR 3750, and in the *Official Gazette* on April 8, 2014. The Office received comments from two intellectual property organizations and one attorney. These comments are posted on the Office's Web site at *http://www.uspto.gov/trademarks/law/FR_Comments_Misc_Changes.jsp*, and are addressed below.

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. References to ''TMEP'' or ''*Trademark Manual of Examining Procedure''* refer to the October 2014 edition.

Comments and Responses

The Office received many positive comments in favor of the rule changes and appreciates the public support. To streamline this Notice, such comments expressing support are not individually set forth and no specific responses to such comments are provided.

Applications for Registration

Comment: One commenter agreed with the proposal to remove existing § 2.38(b), but expressed concern regarding any possible effect the rule may have on existing registrations issued pursuant to sections 66(a) and 44(e) of the Act that were not required to indicate if the applied-for mark was being used by one or more related companies, rather than the applicant. Therefore, the commenter encouraged the Office to include a statement that registrations issued under previous versions of § 2.38(b) shall not be vulnerable to challenge due to the omission of information concerning use of the mark solely by related companies whose use inures to the benefit of the applicant under section 5 of the Act.

Response: As noted by the commenter, evidence of use of the mark in commerce is not required for registrations issued pursuant to sections 66(a) or 44(e) of the Act. Accordingly, the requirement under current § 2.38(b) that an applicant indicate when the applied-for mark is not being used by the applicant but is instead being used by one or more related companies whose use inures to the benefit of the applicant is not applicable to registrations issued pursuant to sections 66(a) or 44(e) of the Act. Because such requirement did not apply to registrations issued pursuant to sections 66(a) or 44(e) of the Act, the Office does not believe it is necessary to include a statement regarding the omission of such information in an application under sections 66(a) or 44(e) of the Act under the current rule.

Examination of Application and Action by Applicants

Comment: One commenter inquired as to whether the amendment to add new § 2.62(c) would affect the Office's current practice of encouraging informal communication between applicants (or their representatives) and examining attorneys regarding issues that are capable of resolution by examiner's amendment, and encouraged the Office to investigate potential means for allowing formal responses to be submitted via email.

Response: The Office continues to encourage informal communication between applicants (or their representatives) and examining attorneys regarding issues that are capable of resolution by examiner's amendment, and the revision to § 2.62 in no way affects the Office's position on such informal communications. In addition, the Office is continually investigating alternative procedures that may assist both examining attorneys and applicants (or their representatives) in expediting the examination process.

Comment: Another commenter noted that under proposed § 2.63(a)(2), if a petition to the Director under § 2.146 is denied, the applicant is granted six months from the ''date'' of the Office action that repeated the requirement(s), or thirty days from the date of the decision on the petition, whichever is later, to comply with the repeated requirement(s). By contrast, the commenter noted that under proposed § 2.63(c), if a petition to the Director under § 2.146 is denied, the applicant is granted six months from the ''date of issuance'' of the Office action that repeated the requirement(s), or made it final, or thirty days from the date of the decision on the petition, whichever date is later, to comply with the requirement(s). The commenter suggested that, in order to ensure clarity, the language in proposed §§ 2.63(a)(2) and 2.63(c) be made consistent.

Response: As both the applicable response deadlines after a denial of a petition to the Director under § 2.146 and the statement that a requirement that is the subject of a petition decided by the Director may not subsequently be the subject of an appeal to the Trademark Trial and Appeals Board (TTAB) are set out in new § 2.63(c), such information has been removed from § 2.63(a)(2).

Amendment of Application

Comment: One commenter noted that a process to allow an applicant to request an amendment not specifically listed in § 2.77(a) between the issuance of the notice of allowance and the filing of the statement of use should be available, but the denial of a petition because the issues require review by the examining attorney introduces uncertainty and delay into the process. The commenter therefore encouraged

the Office to consider adopting a process similar to the on-line process currently available to request an amendment between publication of the application for opposition and issuance of the notice of allowance.

Response: Under amended § 2.77(b), if the Director determines that a proposed post-notice of allowance and pre-statement of use amendment does not require review by the examining attorney, the petition will be granted, and the amendment entered into the record. If the Director determines that the proposed post-notice of allowance and pre-statement of use amendment requires review by the examining attorney, the petition will be denied, and the applicant may resubmit the proposed amendment with the statement of use. In the case of proposed amendments submitted after the issuance of the notice of allowance but prior to the submission of a statement of use, regardless of jurisdiction with the examining attorney, an Office action detailing a refusal or requirement that may arise from a proposed amendment cannot issue at that time because it would create a response deadline that differed from the statement of use filing deadline. The complexity of tracking these two different concurrent deadlines presents system problems for the Office and could create confusion for applicants, examining attorneys, and the TTAB that may lead to files being mistakenly abandoned for failure to file a timely response or statement of use and missed opportunities for appealing final requirements and refusals. Additionally, because an examining attorney cannot issue a refusal or requirement after the issuance of the notice of allowance but before the filing of the statement of use, if the Director determined that a proposed amendment required review by an examining attorney and granted the petition, an applicant might mistakenly believe that the proposed amendment has been granted because of the delay in issuing an Office action detailing the issues with the proposed amendment until after the submission of the statement of use. As written, proposed § 2.77(b) will expedite the entry of acceptable amendments, facilitate clarity, and provide the applicant with the most accurate and timely information regarding the status of a proposed amendment.

Publication and Post Publication

Comment: One commenter expressed its support for the proposed revision to § 2.81(b) to remove the list of items that will be included on the notice of allowance to allow greater flexibility in the format of the notice of allowance for changes that may occur in conjunction with the Office's ''Trademarks Next Generation'' information-technology initiative, but encouraged the Office to seek stakeholder input before making substantial changes to the current format of the notice of allowance.

Response: The Office continues to welcome stakeholder input regarding the ''Trademarks Next Generation'' information technology initiative and will provide sufficient notice prior to revising forms.

Madrid Protocol

Comment: One commenter stated the proposed amendment to § 7.11(a)(3)(ii) was not consistent with the *Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement* (as in force on January 1, 2013) (hereinafter ''Common Regulations''), and that under the Common Regulations, the requirement for both black-and-white and color reproductions of the mark applies to all applications, whether filed on paper or electronically.

Response: Based on the concern raised by the commenter about consistency with the Common Regulations, the Office will explore the matter further and is withdrawing the proposed amendment to § 7.11(a)(3)(ii) at this time.

Comment: Another commenter stated that the structure of § 7.23 should be revisited, as the rule appears to apply only to assignments, while Article 9 of the Madrid Protocol and Rule 25 of the Common Regulations apply broadly to all possible ownership changes, including following the death of the holder, judicial decisions, and mergers. In those contexts, the requirement for a ''good-faith effort'' to obtain the signature of the former owner should be revisited.

Response: While § 7.23 refers to ''assignments,'' both in the title and in the body, the Office interprets this term broadly to encompass not only assignments but also other types of conveyances, such as mergers and court-ordered changes. This corresponds with the practice in the Office's Assignment Recordation Branch, where the term ''assignments'' is used in the title of the unit and in documentation, but is interpreted to include not only assignments but also other types of conveyances, such as changes of name and security interests. In order to ensure clarity, the Office has revised § 7.23(a)(5) to indicate that, when the holder no longer exists, the assignee does not have to make a good-faith effort to obtain the assignor's signature.

Comment: Another commenter stated that the amendment to § 7.23(a)(6) does not cover all possible scenarios under which an interested party would be qualified to request a change of ownership through the Office, which appears contrary to Common Regulations Rules 25(1)(b) and 25(2)(a)(iv). Furthermore, the commenter alleged that § 7.23(a)(6) is redundant and should be expunged since § 7.23(a)(4) mentions entitlement requirements, and the Common Regulations do not impose the limitations set forth in § 7.23(a)(6) on an assignee of an international registration to be able to record an assignment through the Office.

Response: While the International Bureau permits requests for changes of ownership to be presented through the office of a contacting party, the Office is not required to do so. The rule change broadens the ability of U.S. trademark owners, who otherwise could not obtain the signature of the former holder after a good-faith effort, to update ownership information with the International Bureau. While the revised rule could not be invoked by parties with no connection to the Office (*e.g.,* a U.S. domestic application/registration or request for extension of protection), those parties have a remedy. They have the option to file a petition to the Director and, upon a showing of extraordinary circumstances, request a waiver of the requirements of § 7.23(a)(6). Since there are transferees who do not qualify to invoke the amended rule, § 7.23(a)(6) is not redundant.

Comment: One commenter addressed the proposed amendment to § 7.24(b)(5)(ii) to require that a request, submitted through the Office, to record a restriction, or the release of a restriction, that is the result of an agreement between the holder of the international registration and the party restricting the holder's right of disposal must include a statement indicating that, after making a good-faith effort, the signature of the holder of the international registration could not be obtained for the request to record the restriction, or release of the restriction, and such statement must be signed and verified or supported by declaration under § 2.20. The commenter noted that the proposed amendment appears to be acceptable in so far as it purports to implement Common Regulations Rule 20(1)(b), but alleged that the current provisions of § 7.24 are not in compliance with the Common Regulations because § 7.24(a) offers the

opportunity to record a restriction through the Office only if the party who obtained the restriction is a national of, is domiciled in, or has a real and effective industrial or commercial establishment in the U.S. The commenter believes that Common Regulations Rule 20(1)(a) dictates that whether or not the holder is a U.S. subject should control.

Response: While Common Regulations Rule 20(1)(a) permits the office of any contracting party of the holder to inform the International Bureau that the holder's right to dispose of an international registration has been restricted, it does not require the office of the contracting party to do so. Accordingly, the Office is not required to inform the International Bureau that the holder's right to dispose of an international registration has been restricted.

Comment: One commenter stated that the rationale for the amendment to § 7.24(b)(7), to indicate that a request to record a restriction, or the release of a restriction, must include an indication that the restriction, or the release of the restriction, of the holder's right of disposal of the international registration applies to the designation to the U.S. or an international registration that was originally based on a U.S. application or registration was unclear. The commenter asked if there was a need for equal treatment in two very distinct situations, such as restriction on the right to dispose of an international registration having effect in the U.S. and an international registration having no such effect, which would not be a remedy. The commenter suggested amending § 7.24(a)(2) to refer to the holder of the international registration instead of the party who obtained the restriction, or deleting or amending § 7.24(b)(4).

Response: While the International Bureau permits requests to record the holder's right to dispose of an international registration to be presented through an office of a contracting party, the Office is not required to do so. The proposed rule change broadens the ability of U.S. trademark owners, who otherwise could not obtain the signature of the holder after a good-faith effort, to record the restriction of the right to dispose with the International Bureau. While the proposed rule could not be invoked by a party with no connection to the Office (*e.g.,* U.S. domestic application/registration or request for extension of protection), such a party has a remedy. The party has the option to file a petition to the Director and, upon a showing of extraordinary circumstances, request a waiver of the requirements of § 7.24(b)(7).

Discussion of Rule Changes

Representation by Attorneys or Other Authorized Persons

Rule 2.17(d)(1)

The Office is amending § 2.17(d)(1) to remove the reference to the number of powers of attorney that can be filed via the Trademark Electronic Application System (''TEAS'') for existing applications or registrations that have the identical owner and attorney. Prior to this amendment, the TEAS Revocation of Attorney/Domestic Representative and/or Appointment of Attorney/Domestic Representative form indicated that up to 300 applications or registrations could be amended per request. The amendment is intended to remove outdated information, and allows for greater flexibility for future enhancements to TEAS.

Rule 2.19(b)

The Office is amending § 2.19(b) to require compliance with § 11.116, rather than § 10.40, as part 10 of this chapter has been removed and reserved (78 FR 20180 (April 3, 2013)) and § 11.116 now sets out the requirements for terminating representation.

Applications for Registration

Rule 2.22(a)(19)

The Office is amending § 2.22(a)(19) to indicate that if a TEAS Plus applicant owns one or more registrations for the same mark shown in the application, and the last listed owner of the prior registration(s) differs from the owner of the application, the application must include a claim of ownership for the prior registration(s) in order to be entitled to the reduced filing fee under § 2.6(a)(1)(iii). This limits the circumstances under which a TEAS Plus applicant is required to claim ownership of a prior registration and is consistent with the revision to the claim of ownership requirements in § 2.36.

Rule 2.36

The Office is amending § 2.36 to indicate that an applicant is only required to claim ownership of prior registrations for the same or similar marks if the owner listed in the application differs from the owner last listed in the Office's database for such prior registrations. This is consistent with existing practice.

Rule 2.38

The Office is amending § 2.38(b) to remove the requirement that an application indicate that, if the applied-for mark is not being used by the applicant but is being used by one or more related companies whose use inures to the benefit of the applicant under section 5 of the Act, such fact must be indicated in the application.

The Office is re-designating § 2.38(c) as § 2.38(b), as the requirement in current § 2.38(b) is being removed.

Examination of Application and Action by Applicants

Rule 2.62(c)

The Office is adding new § 2.62(c) to specify that responses to Office actions must be filed through TEAS, transmitted by facsimile, mailed, or delivered by hand, and that responses sent by email will not be accorded a date of receipt. This is consistent with existing practice.

Rule 2.63

The Office is amending the title of § 2.63 from ''Reexamination'' to ''Action after response,'' as revised § 2.63 incorporates a discussion of reexamination, the filing of petitions and appeals, and abandonments.

The Office is amending § 2.63(a) to clarify that after submission of a response by the applicant, the examining attorney will review all statutory refusal(s) and/or requirement(s) in light of the response. This is consistent with TMEP section 713.

The Office is adding § 2.63(a)(1) to clarify that the applicant may respond to a non-final action that maintains any requirement(s) or substantive refusal(s) by filing a timely response to the examiner's action. This is consistent with TMEP section 713. To ensure clarity, the Office is adding a cross-reference to § 2.62(a).

The Office is adding § 2.63(a)(2) to clarify that the applicant may respond to a non-final action that maintains any requirement(s) by filing a petition to the Director under § 2.146 if the subject matter of the requirement(s) is appropriate for petition. This is consistent with TMEP sections 713 and 1702. In addition, as both the applicable response deadlines after a denial of a petition to the Director under § 2.146 and the statement that a requirement that is the subject of a petition decided by the Director may not subsequently be the subject of an appeal to the TTAB are set out in new § 2.63(c), such information has been removed from § 2.63(a)(2).

The Office is amending § 2.63(b) to clarify that the examining attorney may make final a refusal or requirement upon review of a response. This is consistent with current § 2.64(a) and

TMEP sections 713 and 714.03. To ensure clarity, the Office is updating the wording to remove a reference to ''request for reconsideration'' because § 2.63(a) discusses responses to non-final actions, and the Office uses ''request for reconsideration'' to refer to responses after final actions.

The Office is adding § 2.63(b)(1) to clarify that the applicant may respond to a final action that maintains any substantive refusal(s) by filing an appeal to the TTAB under §§ 2.141 and 2.142. This is consistent with TMEP section 1501.01. To ensure clarity, the Office is updating the wording to explicitly state that the applicant may additionally respond by filing a timely request for reconsideration under § 2.63(b)(3) that seeks to overcome any substantive refusal(s) or outstanding requirement(s) maintained in the final action. This is consistent with TMEP section 715.03.

The Office is adding § 2.63(b)(2) to clarify that the applicant may respond to a final action that withdraws all substantive refusals but maintains any requirement(s) either by filing an appeal to the TTAB under §§ 2.141 and 2.142 or by filing a petition to the Director under § 2.146, if the subject matter of the requirement(s) is procedural, and therefore appropriate for petition. This is consistent with current § 2.63(b) and TMEP sections 1501.01 and 1704. To ensure clarity, the Office is updating the wording to explicitly state that the applicant may additionally respond by filing a timely request for reconsideration under § 2.63(b)(3) that seeks to comply with any outstanding requirement(s) maintained in the final action. This is consistent with TMEP section 715.03.

The Office is adding § 2.63(b)(3) to clarify that the applicant may file a request for reconsideration of the final action prior to the expiration of the time for filing an appeal to the TTAB or a petition to the Director, and that the request does not stay or extend the time for filing an appeal or petition. This is consistent with current § 2.64(b) and TMEP section 715.03. To ensure clarity, the Office is updating the wording to indicate that the request for reconsideration should seek to overcome any substantive refusal(s) and/or comply with any outstanding requirement(s), and that the Office will enter amendments accompanying requests for reconsideration if the amendments comply with the rules of practice and the Act. This is consistent with TMEP sections 715.02 and 715.03. In addition, the proposed language indicating that the request for reconsideration must be properly signed is being removed from § 2.63(b)(3), as this requirement is already specified in § 2.193(e)(2).

The Office is adding § 2.63(b)(4) to clarify that the filing of a request for reconsideration that does not result in the withdrawal of all refusals and requirements, without the filing of a timely appeal or petition, will result in abandonment of the application for incomplete response. This is consistent with section 12(b) of the Act and current § 2.65(a).

The Office is adding § 2.63(c) to clarify both that if a petition to the Director under § 2.146 is denied, the applicant will have until six months from the date of issuance of the Office action that repeated the requirement(s), or made it final, or thirty days from the date of the decision on the petition, whichever date is later, to comply with the requirement(s), and that a requirement that is the subject of a petition decided by the Director subsequently may not be the subject of an appeal to the TTAB. This is consistent with current § 2.63(b) and TMEP sections 1501.01 and 1702.

The Office is adding § 2.63(d) to clarify that if an amendment to allege use is filed during the six-month response period after issuance of a final action, the examining attorney will examine the amendment, but the filing of the amendment does not stay or extend the time for filing an appeal to the TTAB or a petition to the Director. This is consistent with current § 2.64(c)(1) and TMEP sections 711 and 1104.

Rule 2.64

The Office is removing and reserving § 2.64 and is incorporating updated final action procedures into revised § 2.63.

Rule 2.65

The Office is amending § 2.65(a) both to clarify that an application will be deemed abandoned if an applicant fails to respond, or respond completely, to an Office action within six months of the issuance date, but a timely petition to the Director or notice of appeal to the TTAB, if appropriate, is considered to be a response that avoids abandonment, and to revise the reference to § 2.63(b) so as to reference § 2.63(a) and (b). The clarification is consistent with TMEP section 718.03, and the revision to the reference accounts for the amendment to § 2.63, which sets out the conditions for a petition under § 2.146 in § 2.63(a) and (b) instead of only § 2.63(b). To ensure clarity, the Office is adding a cross-reference to § 2.63(b)(4).

The Office is adding § 2.65(a)(1) to clarify that if an applicant fails to timely respond to an Office action, but all refusals and/or requirements are expressly limited to certain goods and/or services, the application will be abandoned only as to those goods and/or services. This is consistent with current § 2.65(a) and TMEP section 718.02(a).

The Office is adding § 2.65(a)(2) to clarify that an applicant may, in certain situations, be granted thirty days, or to the end of the response period set forth in the action, whichever is longer, to provide information omitted from a response before the examining attorney considers the issue of abandonment. In order to ensure clarity, certain wording in the rule has been changed from passive to active voice. This is consistent with current § 2.65(b) and TMEP section 718.03(b).

The Office is amending § 2.65(b) to clarify that an application will be abandoned if an applicant expressly abandons the application pursuant to § 2.68. This is consistent with TMEP section 718.01.

The Office is amending § 2.65(c) to clarify that an application under section 1(b) of the Act will be abandoned if the applicant fails to file a timely statement of use under § 2.88 or a request for an extension of time for filing a statement of use under § 2.89. This is consistent with section 1(d)(4) of the Act and TMEP sections 1108.01 and 1109.04.

Rule 2.68

The Office is amending § 2.68(a) to indicate that, consistent with existing practice, a request for abandonment or withdrawal may not subsequently be withdrawn. This is intended to provide applicants, registration owners, and the public assurance of the accuracy of the status of applications or registrations after filings are received by the Office.

The Office is amending § 2.68(b) for clarity by moving the ''in any proceeding before the Office'' clause to the end of the sentence.

Amendment of Application

Rule 2.77(b)

The Office is amending § 2.77(b) to indicate that amendments not listed in § 2.77(a) may be entered in the application in the time period between issuance of the notice of allowance and submission of a statement of use only with the express permission of the Director, after consideration on petition under § 2.146. This is consistent with TMEP sections 1107 and 1505.01(d), which currently require a waiver of § 2.77 on petition. If the Director determines that the amendment requires review by the examining attorney, the petition will be denied and the

amendment may be resubmitted with the statement of use.

Publication and Post Publication

Rule 2.81(b)

The Office is amending § 2.81(b) to remove the list of items that will be included on the notice of allowance. This change will allow greater flexibility in the format of the notice of allowance for changes that may occur in conjunction with the Office's ''Trademarks Next Generation'' information-technology initiative. As a matter of practice, at this time, the Office plans to continue to maintain the current format of the notice of allowance.

Rule 2.84(b)

The Office is amending § 2.84(b) to clarify that an application that is not the subject of an inter partes proceeding before the TTAB may be amended after the mark has been published for opposition, but before the certificate of registration has been issued under section 1(a), 44, or 66(a) of the Act, or before the notice of allowance has been issued in an application under section 1(b) of the Act, if the amendment meets the requirements of §§ 2.71, 2.72, and 2.74. This is consistent with existing practice.

Appeals

Rule 2.142(f)

The Office is amending § 2.142(f)(3) and (f)(6) to remove the references to § 2.64, as the Office is removing and reserving § 2.64, with the sections of § 2.64 relevant to § 2.142(f)(3) and (f)(6) incorporated into revised § 2.63.

Rule 2.145(a)

The Office is amending § 2.145(a) to add registrants who have filed an affidavit or declaration under section 71 of the Act and are dissatisfied with a decision of the Director to the list of parties eligible to appeal to the U.S. Court of Appeals for the Federal Circuit. This is consistent with TMEP section 1613.18(d).

Rule 2.146

The Office is amending § 2.146(a)(1) and (g) to replace references to § 2.63(b) with references to § 2.63(a) and (b), as the amended rules will list conditions for a petition under § 2.146 in § 2.63(a) and (b) instead of only § 2.63(b). In addition, in order to ensure clarity, the Office is amending § 2.146(g) to replace a reference to § 2.65 with a reference to § 2.65(a).

Post Registration

Rule 2.171(b)(2)(i)

The Office is amending § 2.171(b)(2)(i) to clarify that when the Office receives notification from the International Bureau of the World Intellectual Property Organization that an international registration has been divided due to a change in ownership with respect to some but not all of the goods and/or services, the Office will update Office records to reflect the change in ownership, divide out the assigned goods and/or services from the registered extension of protection (parent registration), and publish notice of the parent registration in the *Official Gazette.* The Office does not record the partial change of ownership in the Assignment Recordation Branch (formerly Assignment Services Branch), and only issues an updated certificate for the parent registration to the owner upon payment of the fee required by § 2.6. This is consistent with existing practice.

Rule 2.172

The Office is amending § 2.172 to clarify that a surrender for cancellation may not subsequently be withdrawn. This is consistent with existing practice.

Rule 2.185(a)

The Office is amending § 2.185(a) to indicate that deficiencies in renewal applications may be corrected after notification from the Office. This is consistent with existing practice.

General Information and Correspondence in Trademark Cases

Rule 2.198(a)(1)

The Office is amending § 2.198(a)(1) by adding § 2.198(a)(1)(viii) to include affidavits under section 71 of the Act in the list of documents excluded from the Office's Priority Mail Express® (formerly Express Mail®) procedure. This is consistent with the handling of corresponding affidavits under section 8 of the Act. In connection with this addition, the Office is revising § 2.198(a)(1)(vi) and § 2.198(a)(1)(vii) for clarity.

Classification of Goods and Services

Rule 6.1(5)

The Office is amending § 6.1(5) to add the wording ''or veterinary'' to the entry ''dietetic food and substances adapted for medical use'' in the listing of goods for International Class 5. This is consistent with the current heading for the international class as established by the Committee of Experts of the Nice Union and set forth in the *International Classification of Goods and Services for the Purposes of the Registration of Marks* published annually by the World Intellectual Property Organization on its Web site.

Madrid Protocol

Rule 7.23(a)

The Office had proposed to amend § 7.23(a)(5) to require that a request to record an assignment of an international registration submitted through the Office include a statement that, after making a good-faith effort, the assignee could not obtain the assignor's signature for the request to record the assignment and that the statement be signed and verified or supported by declaration under § 2.20. In order to ensure clarity, the Office is revising the amendment to § 7.23(a)(5) to require that a request to record an assignment of an international registration submitted through the Office include a statement that either the assignee could not obtain the assignor's signature for the request to record the assignment because the holder no longer exists, or, after a good-faith effort, the assignee could not obtain the assignor's signature for the request to record the assignment. This revision will ensure that, when possible, assignees make a good-faith effort to obtain the assignor's signature before invoking this rule and requesting the Office to forward the assignment document to the International Bureau.

The Office is amending § 7.23(a)(6) to indicate that a request to record an assignment of an international registration submitted through the Office must include an indication that the assignment applies to the designation to the United States (''U.S.'') or an international registration that was originally based on a U.S. application or registration. This revision is intended to ensure that an assignee of an international registration based on a U.S. registration or application is treated the same as an assignee of a designation to the U.S. Prior to this revision, the owner of an international registration based on a U.S. registration or application was required to file a petition to waive § 7.23(a)(6).

Rule 7.24(b)

The Office had proposed to amend § 7.24(b)(5)(ii) to require that a request, submitted through the Office, to record a restriction, or the release of a restriction, that is the result of an agreement between the holder of the international registration and the party restricting the holder's right of disposal must include a statement indicating that, after making a good-faith effort, the

signature of the holder of the international registration could not be obtained for the request to record the restriction, or release of the restriction, and such statement must be signed and verified or supported by declaration under § 2.20. In order to ensure clarity, the Office is revising the amendment to § 7.24(b)(5)(ii) to require, for a request to record the restriction or release of the restriction, a statement either that the holder of the international registration could not obtain the signature of the party restricting the holder's right of disposal because the party restricting the holder's right of disposal no longer exists, or, that after a good-faith effort, the holder of the international registration could not obtain the signature of the party restricting the holder's right of disposal. This revision will ensure that, when possible, holders of international registrations make a good-faith effort to obtain the signature of the party restricting the holder's right of disposal before invoking this rule and requesting the Office to forward the document to the International Bureau.

The Office is amending § 7.24(b)(7) to indicate that a request to record a restriction, or the release of a restriction, must include an indication that the restriction, or the release of the restriction, of the holder's right of disposal of the international registration applies to the designation to the U.S. or an international registration that was originally based on a U.S. application or registration. This revision is intended to ensure that an assignee of an international registration based on a U.S. registration or application is treated the same as an assignee of a designation to the U.S. Prior to this revision, the owner of an international registration based on a U.S. registration or application was required to file a petition to waive § 7.24(b)(7).

Rule 7.25(a)

The Office is amending § 7.25(a) to add §§ 2.21, 2.76, 2.88, and 2.89 to the list of sections in part 2 not applicable to an extension of protection under section 66(a) of the Act. This is consistent with existing practice as these sections in part 2 only concern applications under sections 1 or 44 of the Act.

Rule 7.31

The Office is amending § 7.31 by revising the introductory text and § 7.31(a)(3) to require that a request to transform an extension of protection to the U.S. into a U.S. application specify the goods and/or services to be transformed. This revision is intended to ensure that the Office transforms an accurate listing of goods and/or services.

The Office is redesignating current § 7.31(a)(3) as § 7.31(a)(4) and current § 7.31(a)(4) as new § 7.31(a)(5) because current § 7.31(a)(3) is being revised to require that a request to transform an extension of protection to the U.S. into a U.S. application specify the goods and/or services to be transformed.

Rulemaking Considerations

Administrative Procedure Act: The changes in this rulemaking involve rules of agency practice and procedure, and/or interpretive rules. *See Nat'l Org. of Veterans' Advocates* v. *Sec'y of Veterans Affairs,* 260 F.3d 1365, 1375 (Fed. Cir. 2001) (rule that clarifies interpretation of a statute is interpretive); *Bachow Commc'ns Inc.* v. *FCC,* 237 F.3d 683, 690 (D.C. Cir. 2001) (rules governing an application process are procedural under the Administrative Procedure Act); *Inova Alexandria Hosp.* v. *Shalala,* 244 F.3d 342, 350 (4th Cir. 2001) (rules for handling appeals were procedural where they did not change the substantive standard for reviewing claims).

Accordingly, prior notice and opportunity for public comment for the rule changes are not required pursuant to 5 U.S.C. 553(b) or (c), or any other law. *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice,'' quoting 5 U.S.C. 553(b)(A)). However, the Office chose to seek public comment before implementing the rule to benefit from the public's input.

Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis, nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), is required. *See* 5 U.S.C. 603.

In addition, for the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). This rule involves changes to rules of agency practice and procedure. The primary impact of the rule is to provide greater clarity as to certain requirements relating to representation before the Office, applications for registration, examination procedures, amendment of applications, publication and post publication procedures, appeals, petitions, post registration practice, correspondence in trademark cases, classification of goods and services, and procedures under the Madrid Protocol. For the most part, the rule changes are intended to codify existing practice. The burdens, if any, to all entities, including small entities, imposed by these rule changes will be minor. Additionally, in a number of instances, the rule changes will lessen the burdens on applicants. Therefore, this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866: This rule has been determined not to be significant for purposes of Executive Order 12866.

Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the Office has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule changes; (2) tailored the rule to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) provided the public with a meaningful opportunity to participate in the regulatory process, including soliciting the views of those likely affected prior to issuing a notice of proposed rulemaking, and provided on-line access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes, to the extent applicable.

Executive Order 13132: This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), prior to issuing any final rule, the Office will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the

Government Accountability Office. The changes in this rule are not expected to result in an annual effect on the economy of 100 million dollars or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rule change is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

Unfunded Mandate Reform Act of 1995: The Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) requires that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments or the private sector.

Paperwork Reduction Act: This rule involves information collection requirements which are subject to review by the U.S. Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Office has determined that there will be no new information collection requirements or impacts to existing information collection requirements associated with this rule. The collections of information involved in this rule have been reviewed and previously approved by OMB under control numbers 0651–0009, 0651–0050, 0651–0051, 0651–0054, 0651–0055, 0651–0056, and 0651–0061.

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 subject 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 6

Administrative practice and procedure, Classification, Trademarks.

37 CFR Part 7

Administrative practice and procedure, International registration, 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 amends parts 2, 6, and 7 of title 37 as follows:

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for 37 CFR part 2 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 2. Amend § 2.17 by revising paragraph (d)(1) to read as follows:

§ 2.17 Recognition for representation.

* * * * *

(d) * * *

(1) The owner of an application or registration may appoint a practitioner(s) qualified to practice under § 11.14 of this chapter to represent the owner for all existing applications or registrations that have the identical owner name and attorney through TEAS.

* * * * *

■ 3. Amend § 2.19 by revising paragraph (b) introductory text to read as follows:

§ 2.19 Revocation or withdrawal of attorney.

* * * * *

(b) *Withdrawal of attorney.* If the requirements of § 11.116 of this chapter are met, a practitioner authorized to represent an applicant, registrant, or party to a proceeding in a trademark case may withdraw upon application to and approval by the Director or, when applicable, upon motion granted by the Trademark Trial and Appeal Board. The practitioner should file the request to withdraw soon after the practitioner notifies the client of his/her intent to withdraw. The request must include the following:

* * * * *

■ 4. Amend § 2.22 by revising paragraph (a)(19) to read as follows:

§ 2.22 Filing requirements for a TEAS Plus application

(a) * * *

(19) If the applicant owns one or more registrations for the same mark, and the owner(s) last listed in Office records of the prior registration(s) for the same mark differs from the owner(s) listed in the application, a claim of ownership of the registration(s) identified by the registration number(s), pursuant to § 2.36; and

* * * * *

■ 5. Revise § 2.36 to read as follows:

§ 2.36 Identification of prior registrations.

Prior registrations of the same or similar marks owned by the applicant should be identified in the application if the owner(s) last listed in Office records of the prior registrations differs from the owner(s) listed in the application.

■ 6. Amend § 2.38 by revising paragraph (b) and removing paragraph (c) to read as follows:

§ 2.38 Use by predecessor or by related companies.

* * * * *

(b) The Office may require such details concerning the nature of the relationship and such proofs as may be necessary and appropriate for the purpose of showing that the use by related companies inures to the benefit of the applicant and does not affect the validity of the mark.

■ 7. Amend § 2.62 by adding paragraph (c) to read as follows:

§ 2.62 Procedure for filing response.

* * * * *

(c) *Form.* Responses must be filed through TEAS, transmitted by facsimile, mailed, or delivered by hand, as set out in § 2.190(a). Responses sent via email will not be accorded a date of receipt.

■ 8. Revise § 2.63 to read as follows:

§ 2.63 Action after response.

(a) *Repeated non-final refusal or requirement.* After response by the applicant, the examining attorney will review all statutory refusals and/or requirement(s) in light of the response.

(1) If, after review of the applicant's response, the examining attorney issues a non-final action that maintains any previously issued substantive refusal(s) to register or repeats any requirement(s), the applicant may submit a timely response to the action under § 2.62(a).

(2) If, after review of the applicant's response, the examining attorney issues a non-final action that contains no substantive refusals to register, but maintains any requirement(s), the applicant may respond to such repeated requirement(s) by filing a timely petition to the Director for relief from the repeated requirement(s) if the subject matter of the repeated requirement(s) is appropriate for petition to the Director (*see* § 2.146(b)).

(b) *Final refusal or requirement.* Upon review of a response, the examining attorney may state that the refusal(s) to register, or the requirement(s), is final.

(1) If the examining attorney issues a final action that maintains any substantive refusal(s) to register, the applicant may respond by timely filing:

(i) A request for reconsideration under paragraph (b)(3) of this section that seeks to overcome any substantive refusal(s) to register, and comply with any outstanding requirement(s), maintained in the final action; or

(ii) An appeal to the Trademark Trial and Appeal Board under §§ 2.141 and 2.142.

(2) If the examining attorney issues a final action that contains no substantive refusals to register, but maintains any requirement(s), the applicant may respond by timely filing:

(i) A request for reconsideration under paragraph (b)(3) of this section that seeks to comply with any outstanding requirement(s) maintained in the final action;

(ii) An appeal of the requirement(s) to the Trademark Trial and Appeal Board under §§ 2.141 and 2.142; or

(iii) A petition to the Director under § 2.146 to review the requirement(s), if the subject matter of the requirement(s) is procedural, and therefore appropriate for petition.

(3) Prior to the expiration of the time for filing an appeal or a petition, the applicant may file a request for reconsideration of the final action that seeks to overcome any substantive refusal(s) and/or comply with any outstanding requirement(s). Filing a request for reconsideration does not stay or extend the time for filing an appeal or petition. The Office will enter amendments accompanying requests for reconsideration after final action if the amendments comply with the rules of practice in trademark cases and the Act.

(4) Filing a request for reconsideration that does not result in the withdrawal of all refusals and requirements, without the filing of a timely appeal or petition, will result in abandonment of the application for incomplete response, pursuant to § 2.65(a).

(c) If a petition to the Director under § 2.146 is denied, the applicant will have six months from the date of issuance of the Office action that repeated the requirement(s), or made it final, or thirty days from the date of the decision on the petition, whichever date is later, to comply with the requirement(s). A requirement that is the subject of a petition decided by the Director subsequently may not be the subject of an appeal to the Trademark Trial and Appeal Board.

(d) If an applicant in an application under section 1(b) of the Act files an amendment to allege use under § 2.76 during the six-month response period after issuance of a final action, the examining attorney will examine the amendment. The filing of such an amendment does not stay or extend the time for filing an appeal or petition.

§ 2.64 [Removed and Reserved]

■ 9. Remove and reserve § 2.64.

■ 10. Revise § 2.65 to read as follows:

§ 2.65 Abandonment.

(a) An application will be abandoned if an applicant fails to respond to an Office action, or to respond completely, within six months from the date of issuance. A timely petition to the Director pursuant to §§ 2.63(a) and (b) and 2.146 or notice of appeal to the Trademark Trial and Appeal Board pursuant to § 2.142, if appropriate, is a response that avoids abandonment (*see* § 2.63(b)(4)).

(1) If all refusals and/or requirements are expressly limited to certain goods and/or services, the application will be abandoned only as to those goods and/or services.

(2) When a timely response by the applicant is a bona fide attempt to advance the examination of the application and is a substantially complete response to the examining attorney's action, but consideration of some matter or compliance with a requirement has been omitted, the examining attorney may grant the applicant thirty days, or to the end of the response period set forth in the action to which the substantially complete response was submitted, whichever is longer, to explain and supply the omission before the examining attorney considers the question of abandonment.

(b) An application will be abandoned if an applicant expressly abandons the application pursuant to § 2.68.

(c) An application will be abandoned if an applicant in an application under section 1(b) of the Act fails to timely file either a statement of use under § 2.88 or a request for an extension of time for filing a statement of use under § 2.89.

■ 11. Revise § 2.68 to read as follows:

§ 2.68 Express abandonment (withdrawal) of application.

(a) *Written document required.* An applicant may expressly abandon an application by filing a written request for abandonment or withdrawal of the application, signed by the applicant, someone with legal authority to bind the applicant (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2). A request for abandonment or withdrawal may not subsequently be withdrawn.

(b) *Rights in the mark not affected.* Except as provided in § 2.135, the fact that an application has been expressly abandoned shall not affect any rights that the applicant may have in the mark set forth in the abandoned application in any proceeding before the Office.

■ 12. Amend § 2.77 by revising paragraph (b) to read as follows:

§ 2.77 Amendments between notice of allowance and statement of use.

* * * * *

(b) Other amendments may be entered during this period only with the express permission of the Director, after consideration on petition under § 2.146. If the Director determines that the amendment requires review by the examining attorney, the petition will be denied and the amendment may be resubmitted with the statement of use in order for the applicant to preserve its right to review.

■ 13. Amend § 2.81 by revising paragraph (b) to read as follows:

§ 2.81 Post publication.

* * * * *

(b) In an application under section 1(b) of the Act for which no amendment to allege use under § 2.76 has been submitted and accepted, if no opposition is filed within the time permitted or all oppositions filed are dismissed, and if no interference is declared, a notice of allowance will issue. Thereafter, the applicant must submit a statement of use as provided in § 2.88.

■ 14. Amend § 2.84 by revising paragraph (b) to read as follows:

§ 2.84 Jurisdiction over published applications.

* * * * *

(b) After publication, but before the certificate of registration is issued in an application under section 1(a), 44, or 66(a) of the Act, or before the notice of allowance is issued in an application under section 1(b) of the Act, an application that is not the subject of an *inter partes* proceeding before the Trademark Trial and Appeal Board may be amended if the amendment meets the requirements of §§ 2.71, 2.72, and 2.74. Otherwise, an amendment to such an application may be submitted only upon petition to the Director to restore jurisdiction over the application to the examining attorney for consideration of the amendment and further examination. The amendment of an application that is the subject of an *inter partes* proceeding before the Trademark Trial and Appeal Board is governed by § 2.133.

■ 15. Amend § 2.142 by revising paragraphs (f)(3) and (6) to read as follows:

§ 2.142 Time and manner of ex parte appeals.

* * * * *

(f) * * *

(3) If the further examination does result in an additional ground for refusal of registration, the examiner and appellant shall proceed as provided by §§ 2.61, 2.62, and 2.63. If the ground for refusal is made final, the examiner shall return the application to the Board, which shall thereupon issue an order allowing the appellant sixty days from the date of the order to file a supplemental brief limited to the additional ground for the refusal of registration. If the supplemental brief is not filed by the appellant within the time allowed, the appeal may be dismissed.

* * * * *

(6) If, during an appeal from a refusal of registration, it appears to the examiner that an issue not involved in the appeal may render the mark of the appellant unregistrable, the examiner may, by written request, ask the Board to suspend the appeal and to remand the application to the examiner for further examination. If the request is granted, the examiner and appellant shall proceed as provided by §§ 2.61, 2.62, and 2.63. After the additional ground for refusal of registration has been withdrawn or made final, the examiner shall return the application to the Board, which shall resume proceedings in the appeal and take further appropriate action with respect thereto.

* * * * *

■ 16. Amend § 2.145 by revising paragraph (a) introductory text to read as follows:

§ 2.145 Appeal to court and civil action.

(a) *Appeal to U.S. Court of Appeals for the Federal Circuit.* An applicant for registration, or any party to an interference, opposition, or cancellation proceeding, or any party to an application to register as a concurrent user, hereinafter referred to as *inter partes* proceedings, who is dissatisfied with the decision of the Trademark Trial and Appeal Board, and any registrant who has filed an affidavit or declaration under section 8 or section 71 of the Act or who has filed an application for renewal and is dissatisfied with the decision of the Director (§§ 2.165 and 2.184), may appeal to the U.S. Court of Appeals for the Federal Circuit. The appellant must take the following steps in such an appeal:

* * * * *

■ 17. Amend § 2.146 by revising paragraphs (a)(1) and (g) to read as follows:

§ 2.146 Petitions to the Director.

(a) * * *

(1) From any repeated or final formal requirement of the examiner in the ex parte prosecution of an application if permitted by § 2.63(a) and (b);

* * * * *

(g) The mere filing of a petition to the Director will not act as a stay in any appeal or *inter partes* proceeding that is pending before the Trademark Trial and Appeal Board nor stay the period for replying to an Office action in an application except when a stay is specifically requested and is granted or when §§ 2.63(a) and (b) and 2.65(a) are applicable to an *ex parte* application.

* * * * *

■ 18. Amend § 2.171 by revising paragraph (b)(2)(i) to read as follows:

§ 2.171 New certificate on change of ownership.

* * * * *

(b) * * *

(2)(i) When the International Bureau of the World Intellectual Property Organization notifies the Office that an international registration has been divided as the result of a change of ownership with respect to some but not all of the goods and/or services, the Office will construe the International Bureau's notice as a request to divide. The Office will update Office records to reflect the change in ownership, divide out the assigned goods and/or services from the registered extension of protection (parent registration), and publish notice of the parent registration in the *Official Gazette.*

* * * * *

■ 19. Revise § 2.172 to read as follows:

§ 2.172 Surrender for cancellation.

Upon application by the owner, the Director may permit any registration to be surrendered for cancellation. The application for surrender must be signed by the owner of the registration, someone with legal authority to bind the owner (*e.g.,* a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter. When a registration has more than one class, one or more entire class(es) but fewer than the total number of classes may be surrendered. Deletion of fewer than all the goods or services in a single class constitutes amendment of the registration as to that class (*see* § 2.173), rather than surrender. A surrender for cancellation may not subsequently be withdrawn.

■ 20. Amend § 2.185 by revising paragraph (a) introductory text to read as follows:

§ 2.185 Correcting deficiencies in renewal application.

(a) If the renewal application is filed within the time periods set forth in section 9(a) of the Act, deficiencies may be corrected after notification from the Office, as follows:

* * * * *

■ 21. Amend § 2.198 by revising paragraphs (a)(1)(vi) and (vii) and adding paragraph (a)(1)(viii) to read as follows:

§ 2.198 Filing of correspondence by Priority Mail Express®.

(a)(1) * * *

(vi) Renewal requests under section 9 of the Act;

(vii) Requests to change or correct addresses; and

(viii) Affidavits of use under section 71 of the Act.

* * * * *

PART 6—CLASSIFICATION OF GOODS AND SERVICES UNDER THE TRADEMARK ACT

■ 22. The authority citation for 37 CFR part 6 is revised to read as follows:

Authority: Secs. 30, 41, 60 Stat. 436, 440; 15 U.S.C. 1112, 1123; 35 U.S.C. 2, unless otherwise noted.

■ 23. Amend § 6.1 by revising paragraph 5 to read as follows:

§ 6.1 International schedule of classes of goods and services.

* * * * *

5. Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for humans and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

* * * * *

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

■ 24. The authority citation for 37 CFR part 7 continues to read as follows:

Authority: 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 25. Amend § 7.23 by revising paragraph (a)(5) and (6) to read as follows:

§ 7.23 Requests for recording assignments at the International Bureau.

* * * * *

(a) * * *

(5) A statement, signed and verified (sworn to) or supported by a declaration under § 2.20 of this chapter, that, for the request to record the assignment, either the assignee could not obtain the assignor's signature because the holder no longer exists, or, after a good-faith effort, the assignee could not obtain the assignor's signature;

(6) An indication that the assignment applies to the designation to the United States or an international registration that is based on a U.S. application or registration;

* * * * *

■ 26. Amend § 7.24 by revising paragraphs (b)(5)(ii) and (b)(7) to read as follows:

§ 7.24 Requests to record security interest or other restriction of holder's rights of disposal or release of such restriction submitted through the Office.

* * * * *

(b) * * *

(5) * * *

(ii) Where the restriction is the result of an agreement between the holder of the international registration and the party restricting the holder's right of disposal, a statement, signed and verified (sworn to) or supported by a declaration under § 2.20 of this chapter, that, for the request to record the restriction, or release of the restriction, either the holder of the international registration could not obtain the signature of the party restricting the holder's right of disposal because the party restricting the holder's right of disposal no longer exists, or, after a good-faith effort, the holder of the international registration could not obtain the signature of the party restricting the holder's right of disposal;

* * * * *

(7) An indication that the restriction, or the release of the restriction, of the holder's right of disposal of the international registration applies to the designation to the United States or an international registration that is based on a U.S. application or registration; and

* * * * *

■ 27. Amend § 7.25 by revising paragraph (a) to read as follows:

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

(a) Except for §§ 2.21 through 2.23, 2.76, 2.88, 2.89, 2.130, 2.131, 2.160 through 2.166, 2.168, 2.173, 2.175, 2.181 through 2.186, and 2.197, all sections in parts 2 and 11 of this chapter shall apply to an extension of protection of an international registration to the United States, including sections related to proceedings before the Trademark Trial and Appeal Board, unless otherwise stated.

* * * * *

■ 28. Amend § 7.31 by revising the introductory text and paragraphs (a)(3) and (4) and adding paragraph (a)(5) to read as follows:

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

If the International Bureau cancels an international registration in whole or in part, under Article 6(4) of the Madrid Protocol, the holder of that international registration may file a request to transform the goods and/or services to which the cancellation applies in the corresponding pending or registered extension of protection to the United States into an application under section 1 or 44 of the Act.

(a) * * *

(3) Identify the goods and/or services to be transformed, if other than all the goods and/or services that have been cancelled;

(4) The application filing fee for at least one class of goods or services required by § 2.6(a)(1) of this chapter; and

(5) An email address for receipt of correspondence from the Office.

* * * * *

Dated: January 6, 2015.

Michelle K. Lee,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director, United States Patent and Trademark Office.

[FR Doc. 2015–00267 Filed 1–15–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2011–0446, FRL–9921–69–Region 10]

Approval and Promulgation of Implementation Plans; Oregon: Interstate Transport of Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a portion of the State Implementation Plan submission from the State of Oregon to address Clean Air Act interstate transport requirements for the 2006 24-hour fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards. The Clean Air Act requires that each State Implementation Plan contain adequate provisions prohibiting air emissions that will have certain adverse air quality effects in other states. The EPA is determining that Oregon's existing State Implementation Plan contains adequate provisions to ensure that air emissions in Oregon will not significantly contribute to nonattainment or interfere with maintenance of the 2006 24-hour $PM_{2.5}$ National Ambient Air Quality Standards in any other state.

DATES: This final rule is effective on February 17, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R10–OAR–2011–0446. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT–150, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Karl Pepple at: (206) 553–1778,