Morrow, Georgia, as specified in 36 CFR 1253.7(d).

* * * * *

■ 8. Amend § 1280.12 by revising paragraph (c) to read as follows:

§ 1280.12 Is parking available?

* * * * *

(c) *Records services facilities.* Most records services facilities have onsite parking available for researchers. Parking at these facilities and at the Washington National Records Center is governed by GSA regulations, Management of Buildings and Grounds, found at 41 CFR part 101–20. The National Archives at Philadelphia on Market Street (in Philadelphia) and the National Archives at New York City do not have onsite parking. However, there is ample parking in commercial parking garages near these facilities.

* * * * *

Dated: April 7, 2010.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2010–8567 Filed 4–14–10; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 41

[Docket No. PTO–P–2010–0032]

RIN 0651–AC46

Cancellation of Rule of Practice 41.200(b) Before the Board of Patent Appeals and Interferences in Interference Proceedings

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Court of Appeals for the Federal Circuit issued a decision in *Agilent Technologies, Inc.* v. *Affymetrix, Inc.,* 567 F.3d 1366 (Fed. Cir. 2009). That decision impacted the continuing viability of portions of a patent interference rule. The United States Patent and Trademark Office (USPTO or Office) is therefore cancelling the affected portion of the interference rule.

DATES: *Effective date:* This final rule is effective on April 15, 2010.

Applicability date: This final rule is applicable in interferences declared before, on, or after April 15, 2010.

FOR FURTHER INFORMATION CONTACT: James T. Moore, Vice Chief Administrative Patent Judge, Board of Patent Appeals and Interferences (BPAI or Board), by telephone at (571) 272–9797, or by mail addressed to: Mail Stop Interference, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of James T. Moore, at the BPAI.

SUPPLEMENTARY INFORMATION: 37 CFR 41.200(b) (2004) provides: "A claim shall be given its broadest reasonable construction in light of the specification of the application or patent in which it appears." On June 4, 2009, the Federal Circuit in *Agilent* determined that 37 CFR 41.200(b) does not apply in an interference proceeding in the instance where one party challenges another's written description. The Court held: "[W]hen a party challenges written description support for an interference count or the copied claim in an interference, the originating disclosure provides the meaning of the pertinent claim language." *Agilent,* 567 F.3d at 1375. The Court also noted that "[w]hen a party challenges a claim's validity under 35 U.S.C. 102 or 103, however, this court and the Board must interpret the claim in light of the specification in which it appears." *Id.* Addressing the issue again in *Koninklijke Philips Electronics N.V.* v. *Cardiac Science Operating Co.,* 590 F.3d 1326, 1335 (Fed. Cir. 2010), the Court stated that "[A]ny conflict between [Agilent and Rule 200(b)] must be resolved as directed in *Agilent.*"). Accordingly, the Board in an interference will construe a claim in a manner consistent with *Agilent.*

Rulemaking Considerations

A. Administrative Procedure Act: The change in this final rule merely revises the USPTO's rules of practice to eliminate any inconsistency with the Federal Circuit's determination. Furthermore, this rule change involves an interpretive rule or rule of agency practice and procedure under 5 U.S.C. 553(b)(A). Accordingly, the change in this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d). *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37, 87 U.S.P.Q.2d 1705, 1710 (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 rule making for "'interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'" (quoting 5 U.S.C. 553(b)(A))).

B. 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 analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. *See* 5 U.S.C. 603.

C. Executive Order 12866 (Regulatory Planning and Review): This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

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

E. Executive Order 13175 (Tribal Consultation): This rule making will not: (1) Have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

F. Executive Order 13211 (Energy Effects): This rule making is not a significant energy action under Executive Order 13211 because this rule making is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

G. Executive Order 12988 (Civil Justice Reform): This rule making meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

H. Executive Order 13045 (Protection of Children): This rule making does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

I. Executive Order 12630 (Taking of Private Property): This rule making will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

J. 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 USPTO will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. However, this

action is not a major rule as defined by 5 U.S.C. 804(2).

K. Unfunded Mandates Reform Act of 1995: This rule making does not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of 100 million dollars (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of 100 million dollars (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq.*

L. National Environmental Policy Act: This rule making will not have any effect on the quality of environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq.*

M. National Technology Transfer and Advancement Act: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rule making does not contain provisions which involve the use of technical standards.

N. Paperwork Reduction Act: This rule making involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and approved by OMB under OMB control number 0651–0032. The USPTO is not resubmitting an information collection package to OMB for its review and approval because the changes in this rule making do not affect the information collection requirements associated with the information collection under OMB control number 0651–0032.

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 in 37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

■ For the reasons stated in the preamble, the Patent and Trademark Office amends 37 CFR part 41 as follows:

PART 41—PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

■ 1. The authority citation for 37 CFR part 41 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135.

Subpart E—Patent Interferences

§ 41.200 [Amended]

■ 2. In § 41.200, paragraph (b) is removed and reserved.

Dated: April 10, 2010.

David J. Kappos,

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

[FR Doc. 2010–8626 Filed 4–14–10; 8:45 am]

BILLING CODE 3510–16–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 11

[EB Docket No. 04–296; DA 10–500]

Public Safety and Homeland Security Bureau Seeks Informal Comment Regarding Revisions to the Federal Communication Commission's Rules Governing the Emergency Alert System Pending Adoption of the Common Alerting Protocol by the Federal Emergency Management Agency

AGENCY: Federal Communications Commission.

ACTION: Request for comments.

SUMMARY: In this document, the Federal Communication Commission's (Commission) Public Safety and Homeland Security Bureau (PSHSB) seeks informal comment regarding what, if any, changes to the Commission's rules governing the Emergency Alert System (EAS) might be necessitated by the introduction of the Common Alerting Protocol (CAP), as well as the Federal Emergency Management Agency's (FEMA) deployment of its Integrated Public Alert and Warning System (IPAWS).

DATES: Comments are due on or before May 17, 2010 and reply comments are due on or before June 14, 2010.

ADDRESSES: You may submit comments, identified by EB Docket No. 04–296 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People With Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Gregory M. Cooke, Associate Chief, Policy Division, Public Safety and Homeland Security Bureau, at (202) 418–2351, or by e-mail at *gregory.cooke@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communication Commission's Public Notice in EB Docket No. 04–296, DA 10–500, released on March 25, 2010. This document is available to the public at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA–10–500A1.doc.*

Synopsis of the Public Notice

1. CAP is an open, interoperable, data interchange format for collecting and distributing all-hazard safety notifications and emergency warnings to multiple information networks, public safety alerting systems, and personal communications devices. In conjunction with appropriate alert transmission architectures, CAP will allow FEMA, the National Weather Service (NWS), a State Governor, or any other authorized initiator of a public alert and warning to