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the registration.

[30 FR 13193, Oct. 16, 1965, as amended at 31 FR 5262, Apr. 1, 1966; 48 FR 23141, May 23, 1983]

37 CFR 2.174 Correction of Office mistake.

Whenever a material mistake in a registration, incurred through the fault of the Patent and Trademark Office, is clearly disclosed by the records of the Office, a certificate stating the fact and nature of such mistake, signed by the Commissioner or by an employee designated by the Commissioner and sealed with the seal of the Patent and Trademark Office, shall be issued without charge and recorded, and a printed copy thereof shall be attached to each printed copy of the registration certificate. Such corrected certificate shall thereafter have the same effect as if the same had been originally issued in such corrected form, or in the discretion of the Commissioner a new certificate of registration may be issued without charge. The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must be submitted in order that the Commissioner may make appropriate entry thereon.

37 CFR 2.175 Correction of mistake by registrant.

(a) Whenever a mistake has been made in a registration and a showing has been made that such mistake occurred in good faith through the fault of the applicant, the Commissioner may issue a certificate of correction, or in his discretion, a new certificate upon the payment of the required fee, provided that the correction does not involve such changes in the registration as to require republication of the mark.

(b) Application for such action must specify the mistake for which correction is sought and the manner in which it arose, show that it occurred in good faith, be signed by the applicant and verified or include a declaration in accordance with §2.20, and be accompanied by the required fee. The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must also be submitted in order that the Commissioner may make appropriate entry thereon.

(c) A printed copy of the certificate of correction shall be attached to each printed copy of the registration.

[30 FR 13193, Oct. 16, 1965, as amended at 31 FR 5262, Apr. 1, 1966]

37 CFR 2.176 Consideration of above matters.

The matters in §§2.171 to 2.175 will be considered in the first instance by the Examiner of Trademarks. If the action of the Examiner of Trademarks is adverse, registrant may request the Commissioner to review the action under §2.146. If response to an adverse action of the Examiner is not made by the registrant within six months, the matter will be considered abandoned.

TERM AND RENEWAL

Authority: Sections 2.181 to 2.184 also issued under §9, 60 Stat. 431; 15 U.S.C. 1059.

37 CFR 2.181 Term of original registrations and renewals.

(a)(1) Registrations issued or renewed under the Act, prior to November 16, 1989, whether on the Principal Register or on the Supplemental Register, remain in force for twenty years from their date of issue or expiration, and may be renewed for periods of ten years from the expiring period unless previously cancelled or surrendered.

(2) Registrations issued or renewed under the Act on or after November 16, 1989, whether on the Principal Register or on the Supplemental Register, remain in force for ten years from their date of issue or expiration, and may be renewed for periods of ten years from the expiring period unless previously cancelled or surrendered.

(b) Registrations issued under the Acts of 1905 and 1881 remain in force for their unexpired terms and may be renewed in the same manner as registrations under the Act of 1946.

(c) Registrations issued under the Act of 1920 cannot be renewed unless renewal is required to support foreign registrations and in such case may be renewed on the Supplemental Register in the same manner as registrations under the Act of 1946.

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[30 FR 13193, Oct. 16, 1965, as amended at 54 FR 37597, Sept. 11, 1989]

37 CFR 2.182 Period within which application for renewal must be filed.

An application for renewal may be filed by the registrant at any time within six months before the expiration of the period for which the certificate of registration was issued or renewed, or it may be filed within three months after such expiration on payment of the additional fee required.

37 CFR 2.183 Requirements of application for renewal.

(a) The application for renewal must include a statement which is verified or which includes a declaration in accordance with §2.20 by the registrant setting forth the goods or services recited in each class for which renewal is sought in the registration on or in connection with which the mark is still in use in commerce, specifying the nature of such commerce (except under paragraph (c) of this section). This statement must be executed not more than six months before the expiration of the registration and must:

- (1) Be accompanied by a specimen or facsimile specimen for each class for which renewal is sought in the registration showing current use of the mark.
- (2) Include the required fee for each class for which renewal is sought in the registration, and an additional fee for each class in the case of a delayed application for renewal. If the application for renewal includes insufficient fees to cover all classes in the registration, the particular class or classes for which renewal is sought should be specified.

(b) The declaration or verified statement, specimen or facsimile specimen and the fee for each class for which renewal is sought in the registration must be filed within the period prescribed for applying for renewal. If defective or insufficient, they cannot be completed after the period for applying for renewal has passed; if completed after the initial six month period has expired but before the expiration of the three month delay period, the application can be considered only as a delayed application for renewal.

(c) If the mark is not in use in commerce at the time of filing of the declaration or verified statement as to any class for which renewal is sought, facts must be recited to show that nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. There must be a recitation of facts as to nonuse for each class for which renewal is sought or it must be clear that the facts recited apply to each class sought to be renewed. If the facts recited require amplification, or explanation, in order to show excusable nonuse, further evidence may be submitted and considered even though filed after the period for applying for renewal has passed.

(d) If the applicant is not domiciled in the United States, the application for renewal must include the designation of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark.

(e) If the mark is registered under the Act of 1920, the application for renewal must include a showing which is verified or which includes a declaration in accordance with §2.20 that renewal is required to support foreign registrations.

[30 FR 13193, Oct. 16, 1965, as amended at 31 FR 5262, Apr. 1, 1966; 41 FR 761, Jan. 5, 1976]

37 CFR 2.184 Refusal of renewal.

(a) If the application for renewal is incomplete or defective, the renewal will be refused. The application may be completed or amended in response to a refusal, subject to the provisions of §2.183. If a response to a refusal of renewal is not filed within six months from the date of mailing of the action, the application for renewal will be considered abandoned. A request to reconsider a refusal of renewal shall be a condition precedent to a petition to the Commissioner to review the refusal of renewal.

(b) If the refusal of renewal is adhered to, the registrant may petition the Commissioner to review the action under §2.146(a)(2). The petition to the Commissioner requesting review of the action adhering to the refusal of the renewal must be filed within six months from the date of mailing of the action which adhered to the refusal. If a timely petition to the Commissioner is not

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filed, the application for renewal will be considered abandoned.

(c) The decision of the Commissioner on the petition will constitute the final action of the Patent and Trademark Office.

(d) A petition to the Commissioner for review of the action shall be a condition precedent to an appeal to or action for review by any court.

[48 FR 23143, May 23, 1983]

AMENDMENT OF RULES

37 CFR 2.189 Amendments to rules.

(a) All amendments to this part will be published in the Official Gazette and in the FEDERAL REGISTER.

(b) Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to these rules will be published in the FEDERAL REGISTER and in the Official Gazette. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof. Oral hearings may be held at the discretion of the Commissioner.

*Trademark Laws and Regulations***PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE**

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*Authority: 15 U.S.C. 1123; 35 U.S.C. 6.***37 CFR 3.1 Definitions.**

For purposes of this part, the following definitions shall apply:

Application means a national application for patent, an international application that designates the United States of America, or an application to register a trademark unless otherwise indicated.

Assignment means a transfer by a party of all or part of its right, title and interest in a patent or patent application, or a transfer of its entire right, title and interest in a registered mark or a mark for which an application to register has been filed.

Document means a document which a party requests to be recorded in the Office pursuant to

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§ 3.11 and which affects some interest in an application, patent, or registration.

Office means the Patent and Trademark Office.

Recorded document means a document which has been recorded in the Office pursuant to § 3.11.

Registration means a trademark registration issued by the Office.

DOCUMENTS ELIGIBLE FOR RECORDING**37 CFR 3.11 Documents which will be recorded.**

Assignments of applications, patents, and registrations, accompanied by completed cover sheets as specified in §§ 3.28 and 3.31, will be recorded in the Office. Other documents, accompanied by completed cover sheets as specified in §§ 3.28 and 3.31, affecting title to applications, patents, or registrations, will be recorded as provided in this Part or at the discretion of the Commissioner.

37 CFR 3.16 Assignability of trademarks prior to filing of use statement.

No application to register a mark under 15 U.S.C. 1051(b) is assignable prior to the filing of the verified statement of use under 15 U.S.C. 1051(d) except to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

REQUIREMENTS FOR RECORDING**37 CFR 3.21 Identification of patents and patent applications.**

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, e.g., 07/123,456) or the serial number and filing date. An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number (e.g., PCT/US90/01234). If an assignment is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by its date of execution, name of each inventor, and title of the invention so that there can be no mistake as to the patent application intended.

37 CFR 3.24 Formal requirements for documents and cover sheets.

The document and cover sheet must be legible. Either the original document or a true copy of the original document, may be submitted for recording. Only one side of each page shall be used. The paper used should be flexible, strong, white, non-shiny, durable, and preferably no larger than 21.6 x 33.1 cm. (8_ x 14 inches) with a 2.5 cm. (one-inch) margin on all sides.

37 CFR 3.26 English language requirement.

The Office will accept and record non-English language documents only if accompanied by a verified English translation signed by the individual making the translation.

37 CFR 3.27 Mailing address for submitting documents to be recorded.

Documents and cover sheets to be recorded should be addressed to the Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231, unless they are filed together with new applications or with a petition under §3.81(b).

37 CFR 3.28 Requests for recording.

Each document submitted to the Office for recording must be accompanied by at least one cover sheet as specified in §3.31 referring either to those patent applications and patents, or to those trademark applications and registrations, against which the document is to be recorded. If a document to be recorded includes interests in, or transactions involving, both patents and trademarks, separate patent and trademark cover sheets must be submitted. Only one set of documents and cover sheets to be recorded should be filed. If a document to be recorded is not accompanied by a completed cover sheet, the document and any incomplete cover sheet will be returned pursuant to § 3.51 for proper completion of a cover sheet and resubmission of the document

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and a completed cover sheet.

COVER SHEET REQUIREMENTS**37 CFR 3.31 Cover sheet content.**

- (a) Each patent or trademark cover sheet required by § 3.28 must contain:
 - (1) the name of the party conveying the interest;
 - (2) the name and address of the party receiving the interest;
 - (3) a description of the interest conveyed or transaction to be recorded;
 - (4) each application number, patent number or registration number against which the document is to be recorded, or an indication that the document is filed together with a patent application;
 - (5) the name and address of the party to whom correspondence concerning the request to record the document should be mailed;
 - (6) the number of applications, patents or registrations identified in the cover sheet and the total fee;
 - (7) the date the document was executed;
 - (8) an indication that the assignee of a trademark application or registration who is not domiciled in the United States has designated a domestic representative (see § 3.61); and
 - (9) a statement by the party submitting the document that to the best of the person's knowledge and belief, the information contained on the cover sheet is true and correct and any copy submitted is a true copy of the original document; and
 - (10) the signature of the party submitting the document.
- (b) A cover sheet may not refer to both patents and trademarks.

37 CFR 3.34 Correction of cover sheet errors.

- (a) An error in a cover sheet recorded pursuant to § 3.11 will be corrected only if:
 - (1) the error is apparent when the cover sheet is compared with the recorded document to which it pertains and
 - (2) a corrected cover sheet is filed for recordation.
- (b) The corrected cover sheet must be accompanied by the originally recorded document or a copy of the originally recorded document and by the recording fee as set forth in §3.41.

FEES**37 CFR 3.41 Recording fees.**

All requests to record documents must be accompanied by the appropriate fee. A fee is required for each application, patent and registration against which the document is recorded as identified in the cover sheet. The recording fee is set in §1.21(h) of this Chapter for patents and in § 2.6(q) of this Chapter for trademarks.

DATE AND EFFECT OF RECORDING**37 CFR 3.51 Recording date.**

The date of recording of a document is the date the document meeting the requirements for recording set forth in this Part is filed in the Office. A document which does not comply with the identification requirements of § 3.21 will not be recorded. Documents not meeting the other requirements for recording, for example, a document submitted without a completed cover sheet or without the required fee, will be returned for correction to the sender where a correspondence