prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.


P. Michael Payne,
Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–1566 Filed 1–24–12; 8:45 am]
BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office
[Docket No. PTO–T–2011–0050]

Establishment of a One-Year Retention Period for Trademark-Related Papers That Have Been Scanned Into the Trademark Initial Capture Registration System


ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) is establishing a one-year retention period that began on September 26, 2011, for papers scanned into the Trademark Initial Capture Registration System (TICRS) prior to September 26, 2011, or began or begins on a paper’s submission date, for papers scanned into TICRS on or after September 26, 2011. After the expiration of the one-year retention period, the USPTO will dispose of the paper documents unless, within sufficient time prior to disposal, the relevant trademark applicant or owner files a request to correct the electronic record in TICRS, and the request remains outstanding at the time disposal would otherwise have occurred. The one-year retention period for papers scanned into TICRS will reduce the costs currently associated with indefinitely warehousing paper documents, while permitting sufficient time for the review and rarely needed correction of the scanning of such paper documents. The USPTO received no comments to the notice published September 23, 2011, for papers scanned into TICRS on or after September 26, 2011. The request should include: (1) The serial number or registration number; (2) the date and nature of the paper document filed; (3) a description of the error(s) in TICRS/TDR/TSDR; (4) the name and telephone number of the applicant or owner; and (5) a replacement copy of the paper document, if available. The USPTO will review the request and update the record within 21 days of receipt, if appropriate. The applicant or owner may check TICRS or TSDR approximately three weeks after submitting the request to verify entry of the requested changes.

Dated: January 17, 2012.

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

[FR Doc. 2012–1437 Filed 1–24–12; 8:45 am]
BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office
[Docket No. PTO–P–2011–0032]

Establishment of a One-Year Retention Period for Patent-Related Papers That Have Been Scanned Into the Image File Wrapper System or the Supplemental Complex Repository for Examiners


ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) published a notice on August 29, 2011 requesting comments on a proposal to establish a retention period of one year for patent-related papers that have been scanned into the Image File Wrapper system (IFW) or the Supplemental Complex Repository for Examiners (SCORE). The USPTO has considered the comments and is establishing a one-year retention period that: (1) Began on September 1, 2011, for papers scanned into IFW; or SCORE prior to September 1, 2011; or
The one-year retention period is consistent with the USPTO’s new USPTO-specific records disposition authority N1–241–10–1, item 4.4, which was approved by the National Archives and Records Administration (NARA) on October 27, 2011, and is available at http://www.archives.gov/records-mgmt/rcs/schedules/departments/department-of-commerce/rg-0241/n1-241-10-001_s/f15.pdf. Papers that have not been scanned into IFW or SCORE, such as certain papers placed into Artifact Folders, are not subject to the one-year retention period and remain retrievable consistent with past practice. The procedures from the August 2011 notice for the USPTO to dispose of the paper, and to resolve disputes concerning the content of papers as filed versus the content of papers as scanned, are reiterated below.

After the expiration of the one-year retention period (after September 1, 2012, or later), the USPTO will dispose of the paper, unless within sufficient time prior to disposal of the paper, the relevant patent applicant, patent owner, or reexamination party files a *bona fide* request to correct the electronic record of the paper in IFW or SCORE, and the request remains outstanding at the time disposal of the paper would have otherwise occurred.

(2) began or begins on a paper’s submission date, for papers scanned into IFW or SCORE on or after September 1, 2011. After the expiration of the one-year retention period (after September 1, 2012, or later), the USPTO will dispose of the paper unless, within sufficient time prior to disposal of the paper, the relevant patent applicant, patent owner, or reexamination party files a *bona fide* request to correct the electronic record of the paper in IFW or SCORE, and the request remains outstanding at the time disposal of the paper would have otherwise occurred.

The one-year retention period for papers scanned into IFW or SCORE replaces the USPTO’s past practice of indefinitely retaining the papers, which has been rendered unnecessary and not cost-effective by improvements in scanning and indexing.

**DATES:** Effective Date: January 25, 2012. Applicability Date: For papers scanned into IFW or SCORE prior to September 1, 2011, the one-year retention period began on September 1, 2011. For papers scanned into IFW or SCORE on or after September 1, 2011, the one-year retention period began or begins on the paper’s submission date.

**ADDRESSES:** Comments concerning this notice may be sent by electronic mail message over the Internet addressed to IFWPaperRetention@uspto.gov, or submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the USPTO Internet Web site (address: http://www.uspto.gov). Because comments will be available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:** Raul Tamayo, Legal Advisor, Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy, by telephone at (571) 272–7728, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Raul Tamayo.

**SUPPLEMENTARY INFORMATION:** In August 2011, the USPTO published a notice requesting comments from the public on a proposal to establish a retention period of one year for patent-related papers that have been scanned into IFW or SCORE. See Establishing a One-Year Retention Period for Patent-Related Papers That Have Been Scanned Into the Image File Wrapper System or the Supplemental Complex Repository for Examiners, 76 FR 53667 (August 29, 2011), 1370 Off. Gaz. Pat. Office 211 (September 17, 2011). The August 2011 notice explained the USPTO’s past practice of indefinitely retaining papers that have been scanned into IFW or SCORE. The August 2011 notice set forth in detail the USPTO’s reasons for wanting to establish a one-year retention period for patent-related papers that have been scanned into IFW or SCORE, including how improvements in scanning and indexing have rendered the practice of indefinite paper retention unnecessary and not cost-effective.

The USPTO received one comment in response to the August 2011 notice. Specifically, the comment urged the USPTO to extend the retention period beyond one year. The comment expressed concern that the USPTO’s system of scanning documents originally filed in paper may introduce a subtle error that may not become apparent until more than a year after filing. The comment noted that resolution of the error could require referring to the application papers as originally filed to prove that the papers were filed without the error.

The USPTO appreciates the comment and has considered it. However, as stated in the August 2011 notice, the number of issues that arise which actually require the USPTO to reference application papers as originally filed has steadily declined in the years since the USPTO started scanning, in part due to continued improvements in indexing techniques and scanning quality, to the point that continued indefinite retention of papers is not cost-effective.

Furthermore, the August 2011 notice sets forth a procedure for resolving disputes concerning the content of papers as scanned versus the content of papers as filed, including any such disputes which arise beyond one year, i.e., after the USPTO has likely disposed of the relevant originally filed papers under the one-year retention period.

Therefore, the USPTO is establishing a one-year retention period for papers that have been scanned into IFW or SCORE. Specifically, the USPTO is establishing a one-year retention period that: (1) Began on September 1, 2011, for papers scanned into IFW or SCORE prior to September 1, 2011; or (2) began on the date of submission, for papers scanned into IFW or SCORE on or after September 1, 2011.
date of such submission for the corrective replacement document. If, however, the initial submission date of the paper needs to be secured for the information being corrected, a request for correction based on the initially submitted paper should be filed as a petition under 37 CFR 1.181. The request should specifically point out the error(s) in the electronic record of the paper in IFW or SCORE and be accompanied by a replacement copy of the paper, along with (1) any evidence to establish (a) that the need for correction was caused by the USPTO, and (b) the proper submission date of the original paper, and (2) a statement that the replacement copy is a true copy of what was originally filed.

When making a decision on the request, the USPTO’s presumption will be that the electronic record of the paper in IFW or SCORE is accurate and correction is not merited. The USPTO will check to see whether it has the paper at issue. If the USPTO has the paper, the USPTO’s version of the paper will either support the request for correction, in which case the request will be granted, or the USPTO’s version of the paper will not support the request, in which case the request will be dismissed.

On the other hand, if the USPTO does not have the paper, e.g., the paper has been lost, the presumption that the electronic record of the paper in IFW or SCORE is correct can be rebutted where the evidence submitted with the request is sufficient to overcome the presumption. A postcard receipt which itemizes and properly identifies the items that have been filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. However, while a postcard receipt may be the only evidence of receipt in the USPTO, the USPTO’s version of the paper will not support the request, in which case the request will be dismissed.

The procedure set forth in this notice for filing a request to correct the electronic record of a paper that has been scanned into IFW or SCORE is not a replacement for the USPTO’s established procedure for responding to a notice (e.g., a “Notice of Omitted Item(s) in a Nonprovisional Application”) from the Office of Patent Application Processing (OPAP) indicating that the application papers have been accorded a filing date, but are lacking some page(s) of the specification or some of the figures of drawings described in the specification.

Applicants should continue to follow the procedure set forth at Change in Procedure for Handling Nonprovisional Applications Having Omitted Items, 1315 Off. Gaz. Pat. Office 103 (February 20, 2007), when responding to such a notice from OPAP.

In addition, the procedure set forth in this notice for filing a request to correct the electronic record of a paper that has been scanned into IFW or SCORE is generally applicable only to situations in which a certain document, or one or more pages of a certain document, contains an error caused by the USPTO that requires correction. The procedure set forth in this notice is not a replacement for the USPTO’s file reconstruction procedures (37 CFR 1.251 and MPEP § 8.04.04). Paper sources for the image files in IFW are boxed in the order that they are scanned, rather than by application number or reexamination control number, such that a request to correct requiring the retrieval of papers from multiple boxes cannot be reasonably effected.

Dated: January 17, 2012.

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