

(m) Hague Agreement Regulations as used in this chapter means the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement, and Hague Agreement Rule as used in this chapter means one of the Hague Agreement Regulations.

(n) An international design application as used in this chapter means an application for international registration of a design filed under the Hague Agreement. Unless otherwise clear from the wording, reference to “design application” or “application for a design patent” in this chapter includes an international design application that designates the United States.

(o) *Eastern Time* as used in this chapter means Eastern Standard Time or Eastern Daylight Time in the United States, as appropriate.

[43 FR 20461, May 11, 1978, as amended at 47 FR 40139, Sept. 10, 1982; 47 FR 43275, Sept. 30, 1982; 49 FR 48451, Dec. 12, 1984; 60 FR 20220, Apr. 25, 1995; 61 FR 56447, Nov. 1, 1996; 62 FR 53181, Oct. 10, 1997; 65 FR 54657, Sept. 8, 2000; 65 FR 57051, Sept. 20, 2000; 68 FR 14336, Mar. 25, 2003; 68 FR 38624, June 30, 2003; 69 FR 49997, Aug. 12, 2004; 73 FR 47685, Aug. 14, 2008; 77 FR 46624, Aug. 6, 2012; 77 FR 48812, Aug. 14, 2012; 78 FR 11052, Feb. 14, 2013; 80 FR 17953, Apr. 2, 2015; 87 FR 68904, Nov. 17, 2022]

§ 1.10 Filing of correspondence by Priority Mail Express®.

(a)(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the Priority Mail Express® Post Office to Addressee service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS.

(2) The date of deposit with USPS is shown by the “date accepted” on the Priority Mail Express® label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the Priority Mail Express® mailing label with the “date accepted” clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in a Priority Mail

Express® drop box) do so at the risk of not receiving a copy of the Priority Mail Express® mailing label with the desired “date accepted” clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the Priority Mail Express® mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

(c) Any person filing correspondence under this section that was received by the Office and delivered by the Priority Mail Express® Post Office to Addressee service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the “date accepted” on the Priority Mail Express® mailing label or other official USPS notation, may petition the Director to accord the correspondence a filing date as of the “date accepted” on the Priority Mail Express® mailing label or other official USPS notation, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;

(2) The number of the Priority Mail Express® mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Priority Mail Express®; and

(3) The petition includes a true copy of the Priority Mail Express® mailing label showing the “date accepted,” and of any other official notation by the USPS relied upon to show the date of deposit.

(d) Any person filing correspondence under this section that was received by the Office and delivered by the Priority Mail Express® Post Office to Addressee service of the USPS, who can show that the “date accepted” on the Priority Mail Express® mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that

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the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the Priority Mail Express® mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Priority Mail Express®; and

(3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in the Priority Mail Express® Post Office to Addressee service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the Priority Mail Express® Post Office to Addressee service of the USPS.

(e) Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the Priority Mail Express® Post Office to Addressee service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the Priority Mail Express® mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Priority Mail Express®;

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the Priority Mail Express® mailing label thereon, a copy of any returned postcard receipt, a copy of the Priority Mail Express® mailing label showing the “date accepted,” a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the “date accepted” on the Priority Mail Express® mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the

requested filing date was the date the correspondence was deposited in the Priority Mail Express® Post Office to Addressee service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the Priority Mail Express® mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original Priority Mail Express® mailing label, returned postcard receipt, and official notation entered by the USPS.

(f) The Office may require additional evidence to determine if the correspondence was deposited as Priority Mail Express® with the USPS on the date in question.

(g) Any person who mails correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the Priority Mail Express® Post Office to Addressee service of the USPS, but has the correspondence returned by the USPS due to an interruption or emergency in Priority Mail Express® service, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:

(1) The petition is filed promptly after the person becomes aware of the return of the correspondence;

(2) The number of the Priority Mail Express® mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Priority Mail Express®;

(3) The petition includes the original correspondence or a copy of the original correspondence showing the number of the Priority Mail Express® mailing label thereon and a copy of the Priority Mail Express® mailing label showing the “date accepted”; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally deposited with the USPS on the

requested filing date. The Office may require additional evidence to determine if the correspondence was returned by the USPS due to an interruption or emergency in Priority Mail Express® service.

(h) Any person who attempts to mail correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the Priority Mail Express® Post Office to Addressee service of the USPS, but has the correspondence refused by an employee of the USPS due to an interruption or emergency in Priority Mail Express® service, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:

(1) The petition is filed promptly after the person becomes aware of the refusal of the correspondence;

(2) The number of the Priority Mail Express® mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the attempted mailing by Priority Mail Express®;

(3) The petition includes the original correspondence or a copy of the original correspondence showing the number of the Priority Mail Express® mailing label thereon; and

(4) The petition includes a statement by the person who originally attempted to deposit the correspondence with the USPS which establishes, to the satisfaction of the Director, the original attempt to deposit the correspondence and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date. The Office may require additional evidence to determine if the correspondence was refused by an employee of the USPS due to an interruption or emergency in Priority Mail Express® service.

(i) Any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in Priority Mail Express® service which has been so designated by the Director, may petition the Director to consider such correspondence as filed

on a particular date in the Office, provided that:

(1) The petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in Priority Mail Express® service;

(2) The petition includes the original correspondence or a copy of the original correspondence; and

(3) The petition includes a statement which establishes, to the satisfaction of the Director, that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in Priority Mail Express® service, and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

[79 FR 63039, Oct. 22, 2014]

RECORDS AND FILES OF THE PATENT AND TRADEMARK OFFICE

§ 1.11 Files open to the public.

(a) The specification, drawings, and all papers relating to the file of: A published application; a patent; or a statutory invention registration are open to inspection by the public, and copies may be obtained upon the payment of the fee set forth in § 1.19(b)(2). If an application was published in redacted form pursuant to § 1.217, the complete file wrapper and contents of the patent application will not be available if: The requirements of paragraphs (d)(1), (d)(2), and (d)(3) of § 1.217 have been met in the application; and the application is still pending. See § 2.27 of this title for trademark files.

(b) All reissue applications, all applications in which the Office has accepted a request to open the complete application to inspection by the public, and related papers in the application file, are open to inspection by the public, and copies may be furnished upon paying the fee therefor. The filing of reissue applications, other than continued prosecution applications under § 1.53(d) of reissue applications, will be announced in the *Official Gazette*. The announcement shall include at least the filing date, reissue application and original patent numbers, title, class