

navigation position during the deviation period.

**DATES:** This deviation is effective from 7:30 a.m. to 11 a.m. on October 23, 2016.

**ADDRESSES:** The docket for this deviation, [USCG–2016–0941], 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email [David.H.Sulouff@uscg.mil](mailto:David.H.Sulouff@uscg.mil).

**SUPPLEMENTARY INFORMATION:** California Department of Transportation has requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over Sacramento River, at Sacramento, CA. The vertical lift bridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 7:30 a.m. to 11 a.m. on October 23, 2016, to allow the community to participate in the Golden Arches Run event. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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: October 17, 2016.

**D.H. Sulouff,**

*District Bridge Chief, Eleventh Coast Guard District.*

[FR Doc. 2016–25479 Filed 10–20–16; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Parts 2 and 7

[Docket No. PTO–T–2016–0005]

RIN 0651–AD08

#### Trademark Fee Adjustment

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office or USPTO) is amending its rules to set or increase certain trademark fees, as authorized by the Leahy-Smith America Invents Act (AIA). The fees will allow the Office to further USPTO strategic objectives by: Better aligning fees with the full cost of the relevant products and services; protecting the integrity of the register by incentivizing more timely filing or examination of applications and other filings and more efficient resolution of appeals and trials; and promoting the efficiency of the process, in large part through lower-cost electronic filing options. The changes will also continue to recover the aggregate estimated cost of Trademark and Trademark Trial and Appeal Board (TTAB) operations and USPTO administrative services that support Trademark operations.

**DATES:** This rule is effective on January 14, 2017.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Chicoski, Office of the Deputy Commissioner for Trademark Examination Policy, by email at [TMPolicy@uspto.gov](mailto:TMPolicy@uspto.gov), or by telephone at (571) 272–8943.

#### SUPPLEMENTARY INFORMATION:

*Purpose:* Section 10 of the AIA (Section 10) authorizes the Director of the USPTO (Director) to set or adjust by rule any fee established, authorized, or charged under the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.*, as amended (the Trademark Act or the Act) for any services performed by, or materials furnished by, the Office. *See* Section 10 of the AIA, Public Law 112–29, 125 Stat. 284, 316–17. Section 10 prescribes that fees may be set or adjusted only to recover the aggregate estimated costs to the Office for processing, activities, services, and materials relating to trademarks, including administrative costs to the Office with respect to such Trademark and TTAB operations. The Director may set individual fees at, below, or above their respective cost. Section 10 authority includes flexibility to set individual fees in a way that furthers

key policy considerations, while taking into account the cost of the respective services. Section 10 also establishes certain procedural requirements for setting or adjusting fee regulations, such as public hearings and input from the Trademark Public Advisory Committee (TPAC) and oversight by Congress. Accordingly, on October 14, 2015, the Director notified the TPAC of the Office’s intent to set or adjust trademark fees and submitted a preliminary trademark fee proposal with supporting materials.

The TPAC held a public hearing in Alexandria, Virginia on November 3, 2015 and released its report regarding the preliminary proposed fees on November 30, 2015. The Office considered the comments, advice, and recommendations received from the TPAC and the public in proposing the fees set forth in the notice of proposed rulemaking published in the **Federal Register** on May 27, 2016, at 81 FR 33619. The proposed rule included links to the preliminary trademark fee proposal and associated materials and to the TPAC report. The Office considered all public comments received during the comment period in the development of this final rule.

The USPTO protects consumers and provides benefits to businesses by effectively and efficiently carrying out the trademark laws of the United States. The final rule will advance key policy considerations, while taking into account the cost of individual services. For example, the increased fees for paper filings aim to better align the required fees with the cost of processing paper filings and incentivize electronic filings to promote efficiency of the registration process. Other trademark fees are increased to encourage timely filings and notices to further promote the efficiency of the process.

The fee schedule implemented in this rulemaking will also continue to recover the aggregate estimated costs to the Office to achieve strategic and operational goals, such as maintaining an operating reserve, implementing measures to maintain trademark pendency and high quality, modernizing the trademark information technology (IT) systems, continuing programs for stakeholder and public outreach, and enhancing operations of the TTAB.

*Summary of Major Provisions:* The Office herein sets or adjusts 42 trademark processing and service fees. The fee structure increases the per-class fee for an initial application filed on paper by \$225 to \$600, and increases the fees for 31 other paper filings by between \$75 and \$200 (per class, where

applicable). The per-class fee for an initial application filed using the regular Trademark Electronic Application System (TEAS) option is increased by \$75 to \$400. This increase also applies to requests for extension of protection and subsequent designations filed under the Madrid Protocol. 15 U.S.C. 1141e; Madrid Protocol Article 8(7)(a). As discussed below, in response to comments regarding requests for extensions of time to file a statement of use filed electronically, the USPTO is reducing the fee for such extensions. In addition, 10 TTAB-related fees are established or revised, six of which differentiate the fees for initiating a proceeding, as filed electronically or on paper, and increase these as compared to the prior undifferentiated fees; and four that establish electronic and paper filing fees for requests to extend time to file a notice of opposition in certain circumstances. A link to a full list of current and final rule fees, including the unit cost by fee from fiscal years 2013, 2014, and 2015, is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

**Rulemaking Goals and Strategies:** This final rule will allow the Office to achieve the dual goals of furthering key policy considerations while continuing to recover prospective aggregate costs of operation. One of the overall objectives of this rulemaking is to set individual fees to further key IP-protection policy considerations while taking into account the cost of the particular service. The Office seeks to enhance trademark protection for IP rights holders by offering application filing options and promoting the Administration's innovation strategies.

This final rule is based on furthering three key policy considerations: (1) To better align fees with full costs; (2) to protect the integrity of the register; and (3) to promote the efficiency of the trademark process.

**Better Align Fees with Full Costs:** The first fee-setting objective is to set and adjust trademark fees to better align those fees with the full costs of providing the relevant services to achieve aggregate cost recovery. In determining which fees to set or adjust, the Office targeted changes to fees where the gap between the cost of the service and the current fee rate was the greatest. Paper filings are generally more expensive to process than electronic filings. Currently, however, most fees for paper filings are not set at full cost; instead they are subsidized by electronic filers. Because of this, across-the-board increases in fees for paper filings are implemented herein to bring the respective fees closer to the actual

cost of processing paper filings and incentivize lower-cost electronic options. Additionally, adjustments to TTAB fees, which have not been adjusted, depending on the fee, for 15–25 years, will bring the fees closer to current processing costs, and new fees for extensions of time to file a notice of opposition will allow recovery of some of the cost of processing these filings.

**Protect the Integrity of the Trademark Register:** The second fee-setting objective is to set or adjust fees to further the policy objective of protecting the accuracy of the trademark register by incentivizing timely filings and examination, as well as efficient trial and appeal resolutions. These fees are used to encourage actions that help to facilitate efficient processing and encourage the prompt conclusion of application prosecution. An accurate register allows the public to rely on the register to determine potential trademark rights. Filings that may result in a less-accurate register are among those filings targeted under this objective.

**Promote the Efficiency of the Trademark Process:** The third fee-setting objective pertains to furthering key policy objectives and meeting stakeholder expectations by improving the efficiency of the trademark registration process, and related appeals and trial cases, primarily by incentivizing electronic filings. To reach this objective, the Office targets changes to fees that could administratively improve application processing by encouraging more electronic filing. Electronic filing expedites processing, shortens pendency, minimizes manual processing and the potential for data-entry errors, and is more efficient for both the filer and the USPTO. The Office believes that the increase in fees for paper filings, in conjunction with such prior rulemakings as the TEAS Reduced Fee (TEAS RF) rulemaking that took effect in January 2015 (79 FR 74633 (Dec. 16, 2014)) and increased electronic-filing options at lower rates, will continue to result in a greater percentage of electronic filings, in turn improving the efficiency of the trademark process.

Consistent with the Office's goals and obligations under the AIA, another overall objective of this rulemaking is to ensure the fee schedule continues to generate sufficient revenue to recover the prospective aggregate costs of Trademark and TTAB operations and the associated administrative costs. Fees must be set at levels projected to cover future aggregate costs, which include budgetary requirements and an operating reserve. A record number of

over 500,000 classes were filed in fiscal year (FY) 2015, the seventh consecutive year of increased filings, and the Office projects this trend of increased filings to continue for the foreseeable future. Additionally, to maintain trademark pendency and quality goals with the increased filings, the Office must ensure it continues to have adequate resources and IT systems to support future processing and examination requirements. The Office is in the midst of a multi-year IT systems and infrastructure upgrade, which is critical to the future of the U.S. trademark registration system and long sought after by stakeholders.

Maintaining the current fee schedule is unlikely to meet budgetary requirements, including: Full costs associated with the projected increases in filings; the full costs necessary to support Trademark and TTAB operations; and necessary investments in IT systems, intellectual property (IP) policy, and USPTO programs. The USPTO FY 2017 President's Budget was the basis for the initial fee proposal. It includes two revenue estimates based on the projected demand for trademark products and services and fee rates: (1) The current fee schedule; and (2) the initial fee proposal as submitted to the TPAC and discussed in its public hearing and report. It also includes information on estimated aggregate cost that may be found in the USPTO FY 2017 President's Budget (Figure #4, page 23) at <http://www.uspto.gov/sites/default/files/documents/fy17pbr.pdf>.

The Office notes that because the FY 2017 President's Budget was submitted prior to the USPTO making final decisions on the fee adjustments, and given that the Office reduced several fees from the initial proposal in response to comments from the TPAC and the public, and further reduced fees in response to comments submitted regarding the proposed rule, as discussed herein, the aggregate revenue projected for FY 2017–FY 2021 is higher in that document than the projections for this final rule. Under the fee schedule in this final rule, assuming the same level of budgetary requirements, optimal operating reserves are projected by FY 2021. The USPTO would use its existing authority going forward to adjust fees to cover budgetary requirements and to maintain the optimal operating reserve balance. If the actual operating reserve exceeds the estimated optimal level by 15 percent for two consecutive years, the USPTO would consider lowering fees.

Aggregate costs are estimated through the USPTO budget-formulation process

with the annual preparation of a five-year performance-based budget request.

These fee-schedule goals are consistent with strategic goals and objectives detailed in the USPTO 2014–2018 Strategic Plan (Strategic Plan) that is available at: [http://www.uspto.gov/sites/default/files/documents/USPTO\\_2014-2018\\_Strategic\\_Plan.pdf](http://www.uspto.gov/sites/default/files/documents/USPTO_2014-2018_Strategic_Plan.pdf). The Strategic Plan defines the USPTO's mission and long-term goals and presents the actions the Office will take to realize those goals. The significant actions the Office describes in the

Strategic Plan that are specifically related to the goals of this rulemaking are: Ensuring optimal IT service to all users, maintaining trademark pendency and high quality, continuing and enhancing stakeholder and public outreach, and enhancing operations of the TTAB.

The trademark fee schedule implemented herein will achieve the goals of furthering the key policy considerations of better aligning fees with full costs, protecting the integrity of the register, and promoting the

efficiency of the trademark process in FY 2017 and beyond while recovering prospective aggregate costs of operation. It will also create a better and fairer cost-recovery system that balances subsidizing costs to encourage broader usage of IP rights-protection mechanisms and participation by more trademark owners.

The following table shows the current and final fee amounts implemented by this rulemaking for paper-filed applications and documents.

#### FEES FOR PAPER FILINGS

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
2.6(a)(1)(i) .....	6001	Filing an Application on Paper, per Class .....	\$375	\$600	\$225
2.6(a)(19)(i) .....	6006	Request to Divide an Application Filed on Paper, per New Application Created.	100	200	100
2.6(a)(1)(v) .....	6008	Additional Processing Fee under §2.22(c) or §2.23(c), per Class.	50	125	75
2.6(a)(5)(i) .....	6201	Filing an Application for Renewal of a Registration on Paper, per Class.	400	500	100
2.6(a)(6)(i) .....	6203	Additional Fee for Filing a Renewal Application During the Grace Period on Paper, per Class.	100	200	100
2.6(a)(21)(i) .....	6204	Correcting a Deficiency in a Renewal Application via Paper Filing.	100	200	100
2.6(a)(12)(i) .....	6205	Filing an Affidavit under §8 of the Act on Paper, per Class.	100	225	125
2.6(a)(14)(i) .....	6206	Additional Fee for Filing a §8 Affidavit During the Grace Period on Paper, per Class.	100	200	100
2.6(a)(20)(i) .....	6207	Correcting a Deficiency in a §8 Affidavit via Paper Filing.	100	200	100
2.6(a)(13)(i) .....	6208	Filing an Affidavit under §15 of the Act on Paper, per Class.	200	300	100
2.6(a)(7)(i) .....	6210	Filing to Publish a Mark under §12(c) on Paper, per Class.	100	200	100
2.6(a)(8)(i) .....	6211	Issuing New Certificate of Registration upon Request of Registrant, Request Filed on Paper.	100	200	100
2.6(a)(9)(i) .....	6212	Certificate of Correction of Registrant's Error, Request Filed on Paper.	100	200	100
2.6(a)(10)(i) .....	6213	Filing a Disclaimer to a Registration, on Paper ..	100	200	100
2.6(a)(11)(i) .....	6214	Filing an Amendment to a Registration, on Paper.	100	200	100
2.6(a)(2)(i) .....	6002	Filing an Amendment to Allege Use under §1(c) of the Act on Paper, per Class.	100	200	100
2.6(a)(3)(i) .....	6003	Filing a Statement of Use under §1(d)(1) of the Act on Paper, per Class.	100	200	100
2.6(a)(4)(i) .....	6004	Filing a Request under §1(d)(2) of the Act for a Six-Month Extension of Time for Filing a Statement of Use under §1(d)(1) of the Act on Paper, per Class.	150	225	75
7.6(a)(1)(i) .....	6901	Certifying an International Application Based on a Single Application or Registration, Filed on Paper, per Class.	100	200	100
7.6(a)(2)(i) .....	6902	Certifying an International Application Based on More Than One Basic Application or Registration Filed on Paper, per Class.	150	250	100
7.6(a)(4)(i) .....	6903	Transmitting a Request to Record an Assignment or Restriction, or Release of a Restriction, under §7.23 or §7.24 Filed on Paper.	100	200	100
7.6(a)(5)(i) .....	6904	Filing a Notice of Replacement under §7.28 on Paper, per Class.	100	200	100
7.6(a)(6)(i) .....	6905	Filing an Affidavit under §71 of the Act on Paper, per Class.	100	225	125
7.6(a)(7)(i) .....	6906	Surcharge for Filing an Affidavit under §71 of the Act During Grace Period on Paper, per Class.	100	200	100
7.6(a)(3)(i) .....	6907	Transmitting a Subsequent Designation under §7.21, Filed on Paper.	100	200	100

## FEES FOR PAPER FILINGS—Continued

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
7.6(a)(8)(i) .....	6908	Correcting a Deficiency in a §71 Affidavit Filed on Paper.	100	200	100
2.6(a)(16)(i) .....	6401	Filing a Petition to Cancel on Paper, per Class ..	300	500	200
2.6(a)(17)(i) .....	6402	Filing a Notice of Opposition on Paper, per Class.	300	500	200
2.6(a)(18)(i) .....	6403	Ex Parte Appeal to the Trademark Trial and Appeal Board Filed on Paper, per Class.	100	300	200
2.6(a)(22)(i) .....	New	Filing a Request for an Extension of Time to File a Notice of Opposition under § 2.102(c)(3) on Paper.	.....	200	n/a
2.6(a)(23)(i) .....	New	Filing a Request for an Extension of Time to File a Notice of Opposition under § 2.102(c)(1)(ii) or (c)(2) on Paper.	.....	300	n/a
2.6(a)(15)(i) .....	6005	Petitions to the Director Filed on Paper .....	100	200	100

**Comments and Responses**

The USPTO published a proposed rule on May 27, 2016 soliciting comments on the proposed fee schedule. In response, the USPTO received comments from four intellectual property organizations and seven individual commenters representing law firms, corporations, and individuals. These comments are posted on the USPTO's Web site at <http://www.uspto.gov/trademark/trademark-updates-and-announcements/comments-proposed-rulemaking-relating-trademark-fee>.

The Office received comments both generally supporting and objecting to the fee increases. Three commenters objected to any increase in fees, as they believed such increases placed hardships on individual filers and small-business owners. Two of these commenters suggested that fees be maintained at their current levels for these groups and one suggested that the Office consider lowering the fees for individual entrepreneurs, artisans, and crafts people. Alternatively, one commenter expressed support of the Office's goal of incentivizing use of electronic filings, the proposed fee increases on certain paper filings, and the increase of the application fee for the regular TEAS application.

The USPTO appreciates the commenter's support of the objective of incentivizing electronic filing, but it also appreciates the concerns of the commenters regarding the impact of the increased fees on individuals and small-business owners. After review of the comments to the fee proposal, the USPTO is reducing the current fee for electronically filed requests for extensions of time to file a statement of use and the proposed increases for affidavits under sections 8 and 71. Furthermore, the majority of the fee

increases are for paper filings. The less-expensive electronic filing method can be used by all types of filers, including small companies and individuals focused on minimizing costs, and the Office's experience is that small companies and individual filers have proven particularly adept at finding and choosing lower-cost filing options.

The USPTO also received public comments expressing concerns with several individual fees. In the interest of providing context to those comments, they are summarized and responded to in the general discussion of the individual fee rationale below.

*Individual Fee Rationale:* The Office projects the aggregate revenue generated from trademark fees will recover the prospective aggregate cost, including the attainment and maintenance of an adequate operating reserve for its Trademark and TTAB operations. In addition, as described above, some of the fees are set to balance several key policy factors, and executing these policy factors in the trademark fee schedule is consistent with the goals and objectives outlined in the Strategic Plan. Once the key policy factors are considered, fees are set at, above, or below individual cost-recovery levels for the service provided. For more information regarding the cost methodologies used to derive the historical fee unit expenses, please refer to USPTO Fee Setting—Activity Based Information and Trademark Fee Unit Expense Methodology available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

*Fees for Paper Filings:* The final rule increases the fees for paper filings in order to meet two objectives: Better align fees with costs and improve the efficiency of the trademark process. The fee for filing a trademark application for registration on paper is increased by

\$225, from \$375 per International Class to \$600 per International Class.

Additionally, all trademark processing fees for paper filings are increased by \$75 to \$200 more than current fees (per class, when applicable).

The costs of processing paper filings are generally higher than electronic filings and higher than current fee schedules. A full list of current and new fees including the unit cost by fee from fiscal years 2013, 2014, and 2015 is available in the Table of Trademark Fees—Current, Final Rule and Unit Cost at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>. An increase in the fees for these filings will help to offset the higher processing costs and come closer to recovering the total processing costs. Furthermore, setting a higher fee for paper filings incentivizes electronic filings, which are more cost efficient for the Office to process and which reduce the possibility of data-entry errors. As a result, adjustments of 5–10% in the estimated number of paper filings have been made in projecting filings and estimating revenue considering the impact of the fee increase on the behavior of applicants and parties to TTAB proceedings and the resulting revenues. The rationale behind this fee increase is consistent with prior fee reductions for electronic filings.

At present, the vast majority of filings are electronic. For example, in FY 2015, only 0.4% of initial applications for registration were filed on paper, increasing the unit costs as filings decrease. Additionally, more than 95% of all fee-paid requests were filed electronically in FY 2015. Thus, the increase in all paper filing fees will have virtually no impact on the vast majority of applicants and registrants who file documents electronically.

Three commenters objected to the amounts of the proposed fee increases

for paper filings. The USPTO understands the concerns to keep costs low for all filers. The objections to these fees have been carefully considered. However, some of the amended fees are set to balance several key policy factors, and executing these policy factors in the trademark fee schedule is consistent with the goals and objectives outlined in the Strategic Plan. In addition, given the costs to process paper filings, the USPTO has determined that a fee increase is necessary at this time in order to bring the fees charged closer to the costs of processing the filings. The USPTO encourages the use of electronic filing as a preferred filing method because it is less expensive, with lower processing fees and costs. It is also more efficient, because electronic filing expedites processing by eliminating the need for individual data entry as well as decreasing the potential for data-entry errors. The USPTO provides guidance on using TEAS electronic filing forms on its Web site at <http://www.uspto.gov/trademarks-getting-started/trademark-basics/teas-nuts-and-bolts-videos>.

Two commenters suggested a waiver of any higher fee for paper filing in situations where electronic filing is unavailable, whether due a system outage or to TEAS limitations regarding the submission of evidence or specimens in video format. One of the commenters also suggested that the difference in fees in such situations be waived by some mechanism other than a petition to the Director.

The USPTO notes that it is currently possible to submit electronic files containing sound or multimedia specimens or evidence directly through TEAS in all initial application forms as well as response forms, allegation-of-use forms, petitions forms, and post-registration maintenance forms. The complete list of forms is available on the USPTO Web site at <http://www.uspto.gov/trademarks-application-process/filing-online/trademark-electronic-application-system-teas-1#164074>. The USPTO is also enhancing additional forms to permit direct submission of sound or multimedia files on an ongoing basis, with the next enhancement planned for October 2016. Therefore, there are few situations in which a party would be

unable to attach an electronic file to a TEAS form. Until such time as all forms accept such attachments, the USPTO has provided a workaround approach for submitting such files via email.

The USPTO makes every effort to have TEAS and the Electronic System for Trademark Trials and Appeals (ESTTA) for trademark and TTAB filings, respectively, available 24 hours a day, 7 days a week. Sometimes, TEAS or ESTTA may be unavailable because of routine maintenance or are unexpectedly inaccessible. In such cases, the USPTO provides information about the outage on its Web site and makes every attempt to restore service as soon as possible. The USPTO also provides information regarding filing documents during an outage at <http://www.uspto.gov/trademarks-application-process/filing-online/filing-documents-during-outage>. Requests to waive a fee because a document had to be filed on paper due to a system outage or other circumstance are considered on a case-by-case basis. In order to properly assess the circumstances and evidence regarding each request for a fee waiver, the appropriate mechanism is to file a petition to the Director under 37 CFR 2.146.

**Other Trademark-Processing Fees:** The Office also increases certain other trademark-processing fees in order to further key policy considerations, and reduces one fee. The rule increases the per-class fee for an initial application filed through TEAS from \$325 to \$400. This fee increase applies to both U.S. and foreign filers as well as to applications submitted under the Madrid Protocol as requests for extension of protection and subsequent designation. The rule also increases the processing fee for failure to meet the requirements for a TEAS Plus or TEAS RF filing from \$50 to \$125 per International Class to better align the resulting total charge with the fee for filing a regular TEAS application. In addition, the final rule increases the fees for affidavits under sections 8 and 71 of the Act in the amount of \$25 per class for electronic filings and \$125 per class for paper filings. However, as a result of public comments, the rule reduces the current fee for electronically filing a request for an extension of time to file

a statement of use from \$150 to \$125 per class and reduces the increase for filing such a request on paper to \$225, rather than the proposed increase to \$250.

**Initial Application Filed Through TEAS:** The final rule increases the fee for an initial application filed through TEAS as a regular TEAS application in order to better align the fee with the costs and to incentivize subsequent electronic filing and communications. The fee is increased from \$325 to \$400 to bring the fee closer to the full processing cost of the service. Unlike the TEAS Plus and TEAS RF application options, the regular TEAS application does not require the applicant to commit to communicating electronically with the Office throughout the course of prosecution of the application. Increasing the fee for this application option will encourage applicants to commit to complete electronic processing using one of the lower-cost application options. Corresponding increases to the individual fee for requests for protection of an International Registration through the Madrid Protocol are also affected by invoking the relevant provisions under the Protocol and its Common Regulations to adjust fees at the request of a contracting party.

One commenter stated that the proposed increase of “from \$75 a class to \$400 a class” for regular TEAS applications is extremely burdensome on small companies and individuals, and suggested reducing the fee to no more than \$150 per class. The USPTO appreciates the commenter’s concerns regarding the increased price for the regular TEAS application and assumes that the commenter is referring to the \$75 increase from the current fee of \$325 per class to \$400 per class. The USPTO notes that all filers, including small companies and individuals, have less-expensive filing options. Filers seeking lower-cost alternatives may select between the TEAS Plus application, at \$225 per class, and the TEAS RF option, which has fewer filing requirements than the TEAS Plus option, at \$275 per class. The USPTO has no plans to introduce a lower-cost filing option at this time as these fees are set based on the reasons mentioned above.

#### OTHER TRADEMARK-PROCESSING FEES

[Initial application filed through TEAS]

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
2.6(a)(1)(ii) .....	7001	Filing and Application through TEAS, per Class	\$325	\$400	\$75

(1) *Processing Fee for Failure to Meet Requirements for TEAS Plus or TEAS RF*: The final rule increases the fee for failure to meet TEAS Plus or TEAS RF filing requirements in order to promote the efficiency of the trademark application process by incentivizing electronic filings and communication. Both TEAS Plus and TEAS RF feature reduced filing fees in exchange for

meeting certain requirements, including a requirement to file certain documents electronically. Applicants who fail to meet the requirements are charged a per-class processing fee. This fee is increased from \$50 to \$125 to address the difference between the filing fees for these applications and the filing fee for a regular TEAS application, and to further encourage applicants to

maintain the discounted application status by meeting all TEAS Plus and TEAS RF requirements to avoid being assessed the additional processing fee. Thus, the Office will continue to promote use of electronic filings, which are more efficient and cost-effective to review.

**OTHER TRADEMARK-PROCESSING FEES**

[Processing fee for failure to meet requirements for TEAS plus or TEAS RF]

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
2.6(a)(1)(v) .....	6008	Additional Processing Fee under § 2.22(c) or § 2.23(c), per Class (paper).	\$50	\$125	\$75
2.6(a)(1)(v) .....	7008	Additional Processing Fee under § 2.22(c) or § 2.23(c), per Class (electronic).	50	125	75

(2) *Affidavits under sections 8 and 71 of the Act*: In addition to aligning the fees with full costs, the increase in fees for submitting affidavits under sections 8 and 71 will help to ensure the accuracy and integrity of the trademark register. Costs are set to increase for these filings as a result of the need for increased legal examination. In 2012, the USPTO began the Post Registration Proof of Use Pilot Program, during which 500 registrations (for which section 8 or 71 affidavits were filed) were reviewed to assess the accuracy and integrity of the trademark register as to the actual use of the mark with the

goods and/or services identified in the registration. The findings of the pilot program demonstrated a need for ongoing measures for additional review of these filings on a permanent basis. Such additional measures, which are currently under development in a separate rulemaking (see “Changes in Requirements for Affidavits or Declarations of Use, Continued Use, or Excusable Nonuse in Trademark Cases” (81 FR 40589; June 22, 2016)), will help identify and remove registrations with insufficient maintenance filings, thereby reducing the number of invalid registrations, and resulting in a more

accurate trademark register. Increased fees are required to recover the costs associated with the additional review.

The USPTO has reassessed its aggregate cost and determined that a reduction in the proposed increase for affidavits under sections 8 and 71 that are filed on paper is appropriate. The fee for such affidavits filed using TEAS is increased by \$25, rather than the proposed increase of \$50. The fee for such affidavits filed on paper is increased by \$125, rather than the proposed increase of \$150.

**OTHER TRADEMARK-PROCESSING FEES**

[Affidavits under § 8 and § 71 of the Act]

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
2.6(a)(12)(i) .....	6205	Filing an Affidavit under § 8 of the Act on Paper, per Class.	\$100	\$225	\$125
2.6(a)(12)(ii) .....	7205	Filing an Affidavit under § 8 of the Act through TEAS, per Class.	100	125	25
7.6(a)(6)(i) .....	6905	Filing an Affidavit under § 71 of the Act on Paper, per Class.	100	225	125
7.6(a)(6)(ii) .....	7905	Filing an Affidavit under § 71 of the Act through TEAS, per Class.	100	125	25

(3) *Extension of Time to File a Statement of Use*: Two commenters encouraged the USPTO to reduce the fee for extensions of time to file a statement of use filed through TEAS, given the disparity between the cost to process

such extensions and the TEAS fee. The comment is well-taken, and the USPTO will reduce the fee for electronically filed extensions of time to file a statement of use from \$150 to \$125 per class. Although reduced, the fee will

still serve to incentivize electronic filing, a more efficient process than paper filing.

## OTHER TRADEMARK-PROCESSING FEES

[Extension of time to file a statement of use]

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
2.6(a)(4)(i) .....	6004	Filing a Request under § 1(d)(2) of the Act for a Six-Month Extension of Time for Filing a Statement of Use under § 1(d)(1) of the Act on Paper, per Class.	\$150	\$225	\$75
2.6(a)(4)(i) .....	7004	Filing a Request under § 1(d)(2) of the Act for a Six-Month Extension of Time for Filing a Statement of Use under § 1(d)(1) of the Act through TEAS, per Class.	150	125	(25)

*Trademark Service Fees:* The final rule discontinues two trademark service fees and replaces two “at-cost” service fees with a set fee. The deposit account set-up fee is discontinued because the process will be handled electronically, thus reducing the cost to process. The self-service copy fee is discontinued

because the service will be provided by a third-party vendor. Additionally, the USPTO is not moving forward with the proposed hourly fee for using X-Search. The Office reevaluated the proposed fee change and determined to continue to charge no fee for this service. Finally, the unspecified labor fees are replaced

with a set fee of \$160 for expedited service and \$40 for overnight delivery. The fees are based on an average hourly cost of \$40 per hour and the additional time estimated to fulfill the type of request.

## TRADEMARK SERVICE FEES

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
	8524	Unspecified Other Services, Excluding Labor .....	At cost .....	n/a .....	n/a.
	9201	Establish Deposit Account .....	\$10 .....	n/a .....	n/a.
	8902	Self-Service Copy Charge, per Page Copishare Card.	\$0.25 .....	n/a .....	n/a.
	8523	Labor Charges for Services, per Hour or Fraction Thereof.	\$40 .....	n/a .....	n/a.
2.6(b)(9) .....	New	Additional Fee for Expedited Service .....	.....	\$160 .....	n/a.
2.6(b)(8) .....	New	Additional Fee for Overnight Delivery .....	.....	\$40 .....	n/a.

*Existing Fees at the TTAB:* This final rule also increases ex parte (*i.e.*, appeal) fees, which have not been adjusted in more than 25 years, and inter partes (*i.e.*, trial) fees, which have not been adjusted in 15 years. With this rule, the TTAB differentiates paper and electronic filing fees. The rule includes a \$100 per-class increase in fees for electronic filings for petitions for cancellation, notices of opposition, and ex parte appeals. A \$200 increase, per class, is enacted for paper filings for the same requests. Currently, the cost of TTAB operations is heavily subsidized by revenue from other trademark processing fees. The fee increases will not recover the full costs of TTAB operations, but will bring the fees closer to the full costs in order to better align costs and fees. Furthermore, the larger increased fees for paper filings will incentivize lower-cost electronic filing in order to improve the efficiency of processing and reduce total costs.

The Office interpreted one comment to raise concerns about the \$200 increase per class to file a notice of appeal on paper. Another commenter pointed out that most notices of appeal

are filed electronically, so the \$100 per-class increase would affect more stakeholders than the \$200 increase to the paper filing fee. Both comments explained that notices of appeal often are filed to “buy time” or “preserve the right to appeal” while a request for reconsideration of an examining attorney’s final refusal is pending, and as an alternative to any increase in the fee for a notice of appeal, suggested adding a separate fee for only those applicants who file an appeal brief.

The Office recognizes that a significant percentage of notices of appeal are filed, in essence, to obtain an extension of time to continue discussions with an examining attorney regarding issues presented by a final refusal. The final rule retains the proposed increase in the appeal fee (and the differentiation between paper filings and electronic filings). The higher paper filing fee encourages electronic filing, and the increase in the appeal fee encourages efficiency by promoting earlier and more comprehensive communication between applicants and examining attorneys regarding issues raised in Office actions refusing

registration. In reviewing appeals that do not result in the filing of appeal briefs, because requests for reconsideration are granted or lead to further discussion obviating the need to file an appeal brief, the Office has learned that many issues could have been resolved earlier in the examination process or through prompt filing of a request for reconsideration after receipt of a final refusal, rather than much later as a complement to the notice of appeal. For many applicants who receive a final refusal, but promptly file a request for reconsideration, filing a notice of appeal and the fee therefor can be avoided entirely. In addition, were the Office to implement the recommendation to add a fee for filing an appeal brief, the brief fee would have to be significantly higher than the proposed increase in the notice of appeal fee in order to raise revenue equivalent to that generated by the fee increase for the notice of appeal, which, as noted, is avoidable when used primarily as an extension of the examination process.

EXISTING FEES AT THE TTAB

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
2.6(a)(16)(i) .....	6401	Filing a Petition to Cancel on Paper, per Class ..	\$300	\$500	\$200
2.6(a)(16)(ii) .....	7401	Filing a Petition to Cancel through ESTTA, per Class.	300	400	100
2.6(a)(17)(i) .....	6402	Filing a Notice of Opposition on Paper, per Class.	300	500	200
2.6(a)(17)(ii) .....	7402	Filing a Notice of Opposition through ESTTA, per Class.	300	400	100
2.6(a)(18)(i) .....	6403	Ex Parte Appeal to the Trademark Trial and Appeal Board Filed on Paper, per Class.	100	300	200
2.6(a)(18)(ii) .....	7403	Ex Parte Appeal to the Trademark Trial and Appeal Board Filed through ESTTA, per Class.	100	200	100

*Establish Fees for Extensions of Time at the TTAB:* The final rule establishes new fees for requests for extensions of time to file a notice of opposition in order to better align the fees with the processing costs as well as to protect the integrity of the trademark register. The public has 30 days from the date of publication of an application to file a notice of opposition with the TTAB. However, prior to this rule, a potential opposer had available to it several types of extensions, at no fee, that allowed the opposer to delay an application or delay making a decision regarding whether to file an opposition. This rulemaking establishes a tiered fee structure for these filings. Under the new structure, potential opposers may request: (1) An initial 30-day extension for no fee; (2) a subsequent 60-day extension for a fee of \$100 for electronic filings and \$200 for paper filings, OR a single 90-day extension effectively combining the 30-day no-fee extension and the subsequent 60-day extension, at these fees; and (3) a final 60-day extension for a fee of \$200 for electronic filings and \$300 for paper filings. The “subsequent 60-day” extension or 90-day extension both

require a showing of good cause, 37 CFR 2.102(c)(1) to (2), in addition to the appropriate fee. The “final 60-day extension” requires written consent of the applicant or its representative, or a showing of extraordinary circumstances warranting this final extension, *see* 37 CFR 2.102(c)(3), in addition to the appropriate fee.

Three commenters addressed the proposed new fees for extensions of time to oppose. None took issue with higher costs for paper filings. One comment addressed the perceived “abrogation” of the option to file for a 90-day initial extension of time to oppose and noted this would increase filing costs as parties would file for the no-cost 30-day extension and then separately for the subsequent 60-day good-cause extension. The Office does not intend to remove the option for filing an initial 90-day extension, as explained above. All three commenters suggested that the fees for extensions of time to oppose might actually encourage potential opposers to file more notices of opposition to avoid the extension fees. Two of the commenters suggested a fee only for the “final” 60-day

extension of time to oppose. The final rule retains the proposed extension fees, which are noted to be “per application” fees and not “per class” fees, and therefore lower than total fees for filing an opposition to a multi-class application.

These fees will yield efficiencies by encouraging potential opposers to make decisions regarding filing an opposition sooner, thus reducing delays to applicants. Thousands of applications are delayed each year without any subsequent filing of a notice of opposition, and the Office has received complaints from applicants whose applications have been delayed, from the applicants’ perspective, unjustly. Additionally, for those that file the notice of opposition, the fee will result in faster commencement and, therefore, conclusion of TTAB cases by encouraging earlier decisions to initiate proceedings. This should also help to protect the integrity of the trademark register by encouraging timely decisions and filings to ensure that the rights of other applicants and the public are not adversely affected.

NEW FEES FOR EXTENSIONS OF TIME AT THE TTAB

37 CFR	Fee code	Description	Current fee	Final rule fee	Change
2.6(a)(22)(i) .....	New .....	Filing a Request for an Extension of Time to File a Notice of Opposition under § 2.102(c)(3) on Paper.	.....	\$200	n/a.
2.6(a)(22)(ii) .....	New .....	Filing a Request for an Extension of Time to File a Notice of Opposition under § 2.102(c)(3) through ESTTA.	n/a .....	100	n/a.
2.6(a)(23)(i) .....	New .....	Filing a Request for an Extension of Time to File a Notice of Opposition under § 2.102(c)(1)(ii) or (c)(2) on Paper.	n/a .....	300	n/a.
2.6(a)(23)(ii) .....	New .....	Filing a Request for an Extension of Time to File a Notice of Opposition under § 2.102(c)(1)(ii) or (c)(2) through ESTTA.	n/a .....	200	n/a.

Given that the fee for the notice of opposition has been increased, the Office believes that the extension fees

should encourage earlier calculated decisions based on all of the available information and fees. Furthermore,

implementing a tiered-fee structure will reduce the number of potential opposers



that use the extensions merely to delay applications.

Finally, these fees will help offset the processing costs. In FY 2015, the Office received 17,000 requests for extensions of time to file a notice of opposition, but there has been no fee to cover the costs to process these filings. It is customary for requests that delay processing of records, such as extensions, to require a fee to contribute to the cost of processing the filing as well as the overall cost of processing of appeals and trials. These fees are necessary to help attain primary Office goals of furthering key policy considerations, such as encouraging efficient processing, along with recovering the aggregate cost of operations.

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

### Discussion of Regulatory Changes

The USPTO amends §§ 2.6 and 7.6 to establish new or increase certain existing trademark fees, and to make other conforming changes, as described in the section-by-section analysis below.

The USPTO revises § 2.6(a)(1)(i) to increase the fee for an initial application filed on paper from \$375 to \$600 per class, and § 2.6(a)(1)(ii) to increase the fee for an initial application filed using the regular TEAS option from \$325 to \$400 per class. This increase also applies to requests for extension of protection filed under the Madrid Protocol.

The USPTO revises § 2.6(a)(1)(v) to increase the fee for failure to meet TEAS Plus or TEAS RF requirements from \$50 to \$125 per class.

The USPTO revises § 2.6(a)(2) to read “Amendment to allege use” and adds §§ 2.6(a)(2)(i) and (ii) to set out the fees for filing an amendment to allege use on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200 per class.

The USPTO revises § 2.6(a)(3) to read “Statement of use” and adds §§ 2.6(a)(3)(i) and (ii) to set out the fees for filing a statement of use on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200 per class.

The USPTO revises § 2.6(a)(4) to read “Extension of time for filing statement of use” and adds §§ 2.6(a)(4)(i) and (ii) to set out the fees for filing an extension of time to file a statement of use on paper and through TEAS, respectively. The paper filing fee is increased from \$150 to \$225 per class. The fee for filing through TEAS is reduced from \$150 to \$125 per class.

The USPTO revises § 2.6(a)(5)(i) to increase the fee for filing an application for renewal of a registration on paper from \$400 to \$500 per class.

The USPTO revises § 2.6(a)(6) to read “Renewal during grace period” and adds §§ 2.6(a)(6)(i) and (ii) to set out the fees for filing a renewal application during the grace period on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200 per class.

The USPTO revises § 2.6(a)(7) to read “Publishing mark under section 12(c)” and adds §§ 2.6(a)(7)(i) and (ii) to set out the fees for filing a request to publish a mark under section 12(c) on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200 per class.

The USPTO revises § 2.6(a)(8) to read “New certificate of registration” and adds §§ 2.6(a)(8)(i) and (ii) to set out the fees for a filing a request to issue a new certificate of registration on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 2.6(a)(9) to read “Certificate of correction of registrant’s error” and adds §§ 2.6(a)(9)(i) and (ii) to set out the fees for filing a request to issue a certification of correction of a registrant’s error on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 2.6(a)(10) to read “Disclaimer to a registration” and adds §§ 2.6(a)(10)(i) and (ii) to set out the fees for submitting a disclaimer to a registration on paper and through TEAS or the Electronic System for Trademark Trials and Appeals (ESTTA), respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 2.6(a)(11) to read “Amendment of registration” and adds §§ 2.6(a)(11)(i) and (ii) to set out the fees for filing an amendment to a registration on paper and through TEAS or ESTTA, respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 2.6(a)(12) to read “Affidavit under section 8” and adds §§ 2.6(a)(12)(i) and (ii) to set out the fees for filing an affidavit under section 8 of the Act on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$225 per class and the electronic filing fee is increased from \$100 to \$125 per class.

The USPTO revises § 2.6(a)(13) to read “Affidavit under section 15” and adds §§ 2.6(a)(13)(i) and (ii) to set out the fees for filing an affidavit under section 15 of the Act on paper and through TEAS, respectively. The paper filing fee is increased from \$200 to \$300 per class.

The USPTO revises § 2.6(a)(14) to read “Filing section 8 affidavit during grace period” and adds §§ 2.6(a)(14)(i) and (ii) to set out the fees for filing an affidavit under section 8 of the Act during the grace period on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200 per class.

The USPTO revises § 2.6(a)(15) to read “Petitions to the Director” and adds §§ 2.6(a)(15)(i) and (ii) to set out the fees for filing a petition to the Director on paper and through TEAS. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 2.6(a)(16) to read “Petition to cancel” and adds §§ 2.6(a)(16)(i) and (ii) to set out the fees for filing a petition to cancel on paper and through ESTTA. The paper filing fee is increased from \$300 to \$500 per class and the electronic filing fee is increased from \$300 to \$400 per class.

The USPTO revises § 2.6(a)(17) to read “Notice of opposition” and adds §§ 2.6(a)(17)(i) and (ii) to set out the fees for filing a notice of opposition on paper and through ESTTA, respectively. The paper filing fee is increased from \$300 to \$500 per class and the electronic filing fee is increased from \$300 to \$400 per class.

The USPTO revises § 2.6(a)(18) to read “Ex parte appeal” and adds §§ 2.6(a)(18)(i) and (ii) to set out the fees for filing an ex parte appeal on paper and through ESTTA, respectively. The paper filing fee is increased from \$100 to \$300 per class and the electronic filing fee is increased from \$100 to \$200 per class.

The USPTO revises § 2.6(a)(19) to read “Dividing an application” and adds §§ 2.6(a)(19)(i) and (ii) to set out the fees for filing a request to divide an application on paper and through TEAS, respectively. The proposed paper filing fee is increased from \$100 to \$200 per new application created.

The USPTO revises § 2.6(a)(20) to read “Correcting deficiency in section 8 affidavit” and adds §§ 2.6(a)(20)(i) and (ii) to set out the fees for filing a correction in a section 8 affidavit on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 2.6(a)(21) to read “Correcting deficiency in renewal application” and adds §§ 2.6(a)(21)(i) and (ii) to set out the fees for filing a correction in a renewal application on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO adds § 2.6(a)(22) to read “Extension of time for filing notice of opposition under § 2.102(c)(1)(ii) or

(c)(2)” and §§ 2.6(a)(22)(i) and (ii) to set out the fees for filing a request for an extension of time to file a notice of opposition pursuant to § 2.102(c)(1)(ii) or (c)(2) on paper and through ESTTA, respectively. The paper filing fee is set at \$200 and the electronic filing fee is set at \$100.

The USPTO adds § 2.6(a)(23) to read “Extension of time for filing notice of opposition under § 2.102(c)(3)” and §§ 2.6(a)(23)(i) and (ii) to set out the fees for filing a request for an extension of time to file a notice of opposition pursuant to § 2.102(c)(3) on paper and through ESTTA, respectively. The paper filing fee is set at \$300 and the electronic filing fee is set at \$200.

The USPTO deletes the current § 2.6(b)(8).

The USPTO redesignates § 2.6(b)(9) as § 2.6(b)(8) and deletes the current fee for self-service copies and replaces it with a fee of \$40 for overnight delivery.

The USPTO redesignates § 2.6(b)(10) as § 2.6(b)(9) and deletes the current fee for labor charges and replaces it with a fee of \$160 for expedited service.

The USPTO deletes the current § 2.6(b)(11) and redesignates the current § 2.6(b)(12) as § 2.6(b)(10).

The USPTO deletes the current §§ 2.6(b)(13) and § 2.6(b)(13)(i), redesignates the current § 2.6(b)(13)(ii) as § 2.6(b)(11), and adds the wording “Deposit account” at the beginning of the paragraph.

The USPTO revises § 2.200(b) to delete the reference to the extra charge in § 2.6(b)(10), pursuant to the proposed change to § 2.6(b)(10) set forth above.

The USPTO revises § 2.208(a) to delete the reference to the fee for establishing a deposit account and amend the reference regarding the service charge to § 2.6(b)(11), pursuant to the proposed changes to §§ 2.6(b)(13)–(13)(ii) set forth above.

The USPTO revises § 7.6(a)(1) to read “Certification of international application based on single application or registration” and adds §§ 7.6(a)(1)(i) and (ii) to set out the fees for certifying an international application based on a single basic application or registration on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200, per class.

The USPTO revises § 7.6(a)(2) to read “Certification of international application based on more than one application or registration” and adds §§ 7.6(a)(2)(i) and (ii) to set out the fees for certifying an international application based on a more than one application or registration on paper and through TEAS, respectively. The paper filing fee is increased from \$150 to \$250 per class.

The USPTO revises § 7.6(a)(3) to read “Transmission of subsequent designation” and adds §§ 7.6(a)(3)(i) and (ii) to set out the fees for transmitting a subsequent designation under § 7.21 on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 7.6(a)(4) to read “Transmission of request to record an assignment or restriction” and adds §§ 7.6(a)(4)(i) and (ii) to set out the fees for transmitting a request to record an assignment or restriction under § 7.23 or § 7.24 on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$200.

The USPTO revises § 7.6(a)(5) to read “Notice of replacement” and adds §§ 7.6(a)(5)(i) and (ii) to set out the fees for filing a notice of replacement under § 7.28 on paper and through TEAS, respectively. The fee for filing a notice of replacement on paper is increased from \$100 to \$200 per class.

The USPTO revises § 7.6(a)(6) to read “Affidavit under section 71” and to add §§ 7.6(a)(6)(i) and (ii) to set out the fees for filing an affidavit under section 71 of the Act on paper and through TEAS, respectively. The paper filing fee is increased from \$100 to \$225 per class, and the electronic filing fee is increased from \$100 to \$125 per class.

The USPTO revises § 7.6(a)(7) to read “Filing affidavit under section 71 during grace period” and adds §§ 7.6(a)(7)(i) and (ii) to set out the surcharge for filing an affidavit under section 71 of the Act during the grace period on paper and through TEAS, respectively. The surcharge for filing an affidavit during the grace period on paper is increased from \$100 to \$200 per class.

The USPTO revises § 7.6(a)(8) to read “Correcting deficiency in section 71 affidavit” and adds §§ 7.6(a)(8)(i) and (ii) to set out the fees for correcting a deficiency in a section 71 affidavit on paper and through TEAS, respectively. The fee for filing the correction on paper is increased from \$100 to \$200.

### Rulemaking Requirements

#### *America Invents Act*

This rulemaking sets and adjusts fees under Section 10(a) of the AIA. Section 10(a) of the AIA authorizes the Director to set or adjust by rule any trademark fee established, authorized, or charged under the Trademark Act for any services performed by, or materials furnished by the Office. See Section 10 of the AIA, Public Law 112–29, 125 Stat. 284, 316–17. Section 10(e) of the AIA sets forth the general requirements for rulemakings that set or adjust fees under this authority. In particular, Section

10(e)(1) requires the Director to publish in the **Federal Register** any proposed fee change under Section 10, and include in such publication the specific rationale and purpose for the proposal, including the possible expectations or benefits resulting from the proposed change. For such rulemakings, the AIA requires that the Office provide a public comment period of not less than 45 days.

The TPAC advises the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on the management, policies, goals, performance, budget, and user fees of Trademark operations. When adopting fees under Section 10, the AIA requires the Director to provide the TPAC with the proposed fees at least 45 days prior to publishing the proposed fees in the **Federal Register**. The TPAC then has at least 30 days within which to deliberate, consider, and comment on the proposal, as well as hold public hearing(s) on the proposed fees. The TPAC must make a written report available to the public of the comments, advice, and recommendations of the committee regarding the proposed fees before the Office issues any final fees. The Office will consider and analyze any comments, advice, or recommendations received from the TPAC before finally setting or adjusting fees. Fees set or adjusted under Section 10 may not become effective before the end of the 45-day period beginning on the day after the date on which the final rule setting or adjusting the fees is published in the **Federal Register**.

Consistent with the requirements of the AIA, on October 14, 2015, the Director notified the TPAC of the Office’s intent to set or adjust trademark fees and submitted a preliminary trademark fee proposal with supporting materials. The preliminary trademark fee proposal and associated materials are available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>. The revenue estimate for the fee proposal considered by the TPAC was included in the USPTO FY 2017 President’s Budget request. The fee schedule associated with the original proposal is presented as Alternative 4—Original Proposal to TPAC.

The TPAC held a public hearing in Alexandria, Virginia on November 3, 2015. Transcripts of this hearing and comments submitted to the TPAC in writing are available for review at <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>. The TPAC released its report regarding the preliminary proposed fees on November 30, 2015. The report can be found online at <http://www.uspto.gov/>

*about-us/performance-and-planning/fee-setting-and-adjusting*. The proposed rule was published in the **Federal Register** on May 27, 2016 and the public was provided with a 45-day comment period. After consideration of public comments, the USPTO publishes this final rule, which is effective on January 14, 2017.

*Final Regulatory Flexibility Analysis*

The USPTO publishes this Final Regulatory Flexibility Analysis (FRFA) as required by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) to examine the impact of the Office's proposed changes to trademark fees on small entities. Under the RFA, whenever an agency is required by 5 U.S.C. 553 (or any other law) to publish a notice of proposed rulemaking (NPRM), the agency must prepare and make available for public comment a FRFA, unless the agency certifies under 5 U.S.C. 605(b) that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605. The USPTO published an Initial Flexibility Analysis (IRFA), along with the NPRM, on May 27, 2016 (81 FR 33619). The USPTO received no comments from the public directly applicable to the IFRA, as stated below in Item 2.

Items 1–6 below discuss the six items specified in 5 U.S.C. 604(a)(1)–(6) to be addressed in a FRFA. Item 6 below discusses alternatives considered by the Office.

1. Succinct statement of the need for, and objectives of, the rule:

The USPTO is setting and adjusting certain trademark fees as authorized by Section 10 of the AIA. The fee schedule implemented under Section 10 in this rulemaking will further key policy considerations to: (1) Better align fees with full costs; (2) protect the integrity of the register; and (3) promote the efficiency of the trademark process; and recover the aggregate estimated

trademark costs of the Office to achieve strategic and operational goals, such as maintaining an operating reserve, implementing measures to maintain trademark pendency and high trademark quality, modernizing the trademark IT systems, continuing programs for stakeholder and public outreach, and enhancing operations of the TTAB. Aggregate costs are estimated through the USPTO budget-formulation process with the annual preparation of a five-year performance-based budget request. Revenues are estimated based on the projected demand for trademark products and services and fee rates.

As to the legal basis for the final rule, Section 10 of the AIA provides the authority for the Director to set or adjust by rule any fee established, authorized, or charged under the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.*, as amended. *See also* Section 31 of the Trademark Act, 15 U.S.C. 1113.

2. A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments:

The USPTO did not receive any public comments in response to the IRFA. However, the Office received comments about fees in general, as well as particular fees, and their impact on small entities, which are further discussed in the preamble.

3. The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments:

The USPTO did not receive any comments filed by the Chief Counsel for Advocacy of the Small Business

Administration in response to the proposed rule.

4. Description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available:

The USPTO does not collect or maintain statistics in trademark cases on small-versus large-entity applicants, and this information would be required in order to determine the number of small entities that would be affected by the final rule. The USPTO believes that the overall impact of the fee structure implemented herein on applicants and registrants will be positive, because it promotes the more cost-effective electronic filing system. There will be little or no impact for the majority of applicants and registrants that file electronically and communicate on a timely basis.

The final rule applies to any entity filing with USPTO. The USPTO estimates that during the first fiscal year under the rules, assuming an expected implementation date of January 2017, the USPTO would expect to collect approximately \$9.5 million more in trademark processing, service, and TTAB fees. The USPTO would receive an additional \$0.7 million in fees from paper-filed applications and \$8.8 million more from electronically filed applications, including \$3 million from TEAS applications for the registration of a mark, \$3.2 million from requests for extension of protection and subsequent designations, \$0.3 million for additional fees for applications failing to meet the TEAS Plus or TEAS RF requirements, \$4 million for affidavits of use under sections 8 and 71, and \$5 million less for extensions of time for filing a statement of use. Total TTAB filing fees would increase by \$3.6 million; \$2.1 million is expected from the newly established fees for filing extensions of time to file an opposition.

Trademark fee category	Estimated collections with current fees	Estimated collections with final rule fees	Change
Total Trademark Fees .....	\$307,468,600	\$316,957,100	\$9,488,500
Paper-Filed Applications .....	1,752,750	2,418,550	665,800
Electronically Filed Applications .....	294,063,575	302,875,475	8,811,900
TEAS Applications for the Registration of a Mark .....	17,787,900	20,763,600	2,975,700
Request for Extension of Protection and Subsequent Designations .....	19,384,950	22,567,950	3,183,000
Failing to Meet the TEAS Plus or TEAS RF Requirements .....	320,800	663,200	342,400
Affidavit under § 8 and § 71 of the Act .....	21,654,300	25,604,400	3,950,100
Extension of Time to File a Statement of Use .....	37,705,400	32,741,300	(4,964,100)
Total TTAB Fees .....	4,742,000	8,310,700	3,568,700
New TTAB Fees .....	0	2,142,300	2,142,300
Trademark Service Fees .....	11,652,240	11,663,440	11,200

5. Description of the reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:

The final rule imposes no new reporting or recordkeeping requirements.

The final rule sets and adjusts trademark fees. The USPTO does not anticipate that the final rule would have a disproportionate impact upon any particular class of small or large entities.

6. Description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected:

The USPTO considered a total of five alternatives for setting fee rates before enacting this rule. A full list of current and proposed fees for each of the alternatives is available in the FRFA Tables and the Trademark Fee Aggregate Revenue Tables at <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>. The alternatives are explained here with additional information regarding how each proposal was developed and the aggregate revenue was estimated. A description of the Aggregate Revenue Estimating Methodologies is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

The USPTO chose the alternative implemented herein because it will enable the Office to achieve its goals effectively and efficiently without unduly burdening small entities, erecting barriers to entry, or stifling incentives to innovate. This alternative furthers key policy considerations of better aligning fees with full costs, protecting the integrity of the register, and promoting the efficiency of the trademark process while continuing to secure the Office's required revenue to meet its aggregate costs. The increased efficiencies realized through the final rule will benefit all applicants and registrants by allowing registrations to be granted sooner and more efficiently removing unused marks from the

register, thus allowing mark owners to more quickly and assuredly register their marks. The fee schedule for this alternative (labeled Final Rule) is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

One alternative to setting and increasing the proposed fees would be to take no action at this time regarding trademark fees and to leave all trademark fees as currently set. This alternative was rejected because it will not assist in protecting the integrity of the register by incentivizing more timely filing of applications and other filings and more efficient resolution of appeals and trials, will not promote the efficiency of the process by, in part, increasing the affordability of electronic filing options relative to paper filings, and will not better align fees with the full cost of products and services. In addition, it does not sufficiently recover aggregate costs. The fee schedule for this alternative (labeled Alternative 1—No Change) is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

Another alternative to setting and increasing the fees that was considered was to tie all trademark fees to the Consumer Price Index (CPI), applying a 9.956%, multi-year, across-the-board inflationary increase to all trademark fees. The 9.956% represents the estimated cumulative inflationary adjustment from FY 2017 through FY 2021. As estimated by the Congressional Budget Office, projected inflationary rates by fiscal year are: 2.17% in FY 2017, 2.39% in FY 2018, 2.38% in FY 2019, 2.42% in FY 2020, and 2.42% in FY 2021. This alternative was rejected because, unlike the fee structure implemented herein, fee increases would be in excess of aggregate costs and there would be no improvements in fee design to accomplish the stated objectives of protecting the integrity of the register by incentivizing more timely filing of applications and other filings and more efficient resolution of appeals and trials. In addition, it was determined that adjusting trademark fees in accordance with increases or decreases in the CPI would likely lead to user confusion as fees would be adjusted by what could be viewed as non-traditional or unpredictable increments. The fee schedule for this alternative (labeled Alternative 2—CPI Increase) is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

Another alternative that was considered was full cost recovery per fee. This would require USPTO to set each trademark fee at 100% of unit cost

to allow the USPTO to recover full cost per fee based on the most recent fee unit cost trends. The USPTO uses Activity Based Information to determine the historical costs of activities related to each fee. Additional information about the methodology is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

It is common practice in the Federal Government to set a particular fee at a level to recover the cost of a given good or service. In OMB Circular A-25: *User Charges*, the OMB states that user charges (fees) should be sufficient to recover the full cost to the Federal Government of providing the particular service, resource, or good, when the government is acting in its capacity as sovereign. This alternative was rejected because it was determined that the costs for any given product or service can vary from year to year, such that a yearly review of all, and adjustment to many, trademark fees would be required, and could also lead to stakeholder confusion regarding what any given trademark fee was currently set at and what the relevant fee would be in the future. This alternative would have increased revenue by more than the final rule in part because workloads are expected to increase. In addition, it was determined that setting the trademark fees to recover 100% of all costs associated with each product or service would not properly promote the efficiency of the process. The fee schedule for this alternative (labeled Alternative 3—Individual Cost Recovery) is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

For purposes of this discussion, the preliminary trademark fee proposal presented to the TPAC is identified as Alternative 4 in the Trademark Fee Aggregate Revenue Tables available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>. The revenue estimate for the preliminary proposal considered by the TPAC was included in the USPTO FY 2017 President's Budget request. That proposal, as addressed in the preamble, was modified based on the feedback from the TPAC report received November 30, 2015 and feedback received from public comments. The preliminary proposal included an increase in the fee to file a request for an extension of time to file a statement of use that would apply only to U.S.-based applicants that filed an application based on a future intention to use the mark. The final rule no longer includes an increase to that fee unless it is filed on paper, consistent with the increase in all paper-filed requests.

Instead, the final rule includes a reduction in the fee for electronically filing a request for an extension of time to file a statement of use and an increase in the fee for filing an affidavit under section 8 and 71, which apply to the continued maintenance of a registration. The final rule also increases the fee for filing a TEAS application. The fee schedule for this alternative (labeled Alternative 4—Original Proposal to TPAC (FY 17 PB)) is available at: <http://www.uspto.gov/about-us/performance-and-planning/fee-setting-and-adjusting>.

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

*Executive Order 13563 (Improving Regulation and Regulatory Review)*: The USPTO has complied with Executive Order 13563 (Jan. 18, 2011). Specifically, the USPTO has, to the extent feasible and applicable: (1) Made a reasoned determination that the benefits justify the costs of the rule; (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 online 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 (Federalism)*: 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 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. The changes in this notice 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 notice is not expected to result in a “major rule” as defined in 5 U.S.C. 804(2).

*Unfunded Mandates Reform Act of 1995*: The changes set forth in this rulemaking do 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.*

*Paperwork Reduction Act*: This rule involves information collection requirements that 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 rule has been reviewed and previously approved by OMB under control numbers 0651-0009, 0651-0040, 0651-0050, 0651-0051, 0651-0054, and 0651-0055.

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 7

Administrative practice and procedure, Trademarks, International registration.

For the reasons stated in the preamble and under the authority contained in Section 10(a) of the AIA, 15 U.S.C. 1113, 15 U.S.C. 1123, and 35 U.S.C. 2, as amended, the USPTO amends parts 2 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. 1113, 15 U.S.C. 1123, 35 U.S.C. 2, Section 10 of Pub. L. 112–29, unless otherwise noted.

■ 2. Revise § 2.6 to read as follows:

### § 2.6 Trademark fees.

- (a) Trademark process fees.
  - (1) Application filing fees.
    - (i) For filing an application on paper, per class—\$600.00
    - (ii) For filing an application through TEAS, per class—\$400.00
    - (iii) For filing a TEAS Reduced Fee (RF) application through TEAS under § 2.23, per class—\$275.00
    - (iv) For filing a TEAS Plus application through TEAS under § 2.22, per class—\$225.00
    - (v) Additional processing fee under §§ 2.22(c) or 2.23(c), per class—\$125.00
  - (2) Amendment to allege use.
    - (i) For filing an amendment to allege use under section 1(c) of the Act on paper, per class—\$200.00
    - (ii) For filing an amendment to allege use under section 1(c) of the Act through TEAS, per class—\$100.00
  - (3) Statement of use.
    - (i) For filing a statement of use under section 1(d)(1) of the Act on paper, per class—\$200.00
    - (ii) For filing a statement of use under section 1(d)(1) of the Act through TEAS, per class—\$100.00
  - (4) Extension of time for filing statement of use.
    - (i) For filing a request under section 1(d)(2) of the Act for a six-month extension of time for filing a statement of use under section 1(d)(1) of the Act on paper, per class—\$225.00
    - (ii) For filing a request under section 1(d)(2) of the Act for a six-month extension of time for filing a statement of use under section 1(d)(1) of the Act through TEAS, per class—\$125.00
  - (5) Application for renewal of a registration fees.
    - (i) For filing an application for renewal of a registration on paper, per class—\$500.00
    - (ii) For filing an application for renewal of a registration through TEAS, per class—\$300.00
  - (6) Renewal during grace period.
    - (i) Additional fee for filing a renewal application during the grace period on paper, per class—\$200.00

- (ii) Additional fee for filing a renewal application during the grace period through TEAS, per class—\$100.00
- (7) Publishing mark under section 12(c).
- (i) For filing to publish a mark under section 12(c) on paper, per class—\$200.00
- (ii) For filing to publish a mark under section 12(c) through TEAS, per class—\$100.00
- (8) New certificate of registration.
- (i) For issuing a new certificate of registration upon request of registrant, request filed on paper—\$200.00
- (ii) For issuing a new certificate of registration upon request of registrant, request filed through TEAS—\$100.00
- (9) Certificate of correction of registrant's error.
- (i) For a certificate of correction of registrant's error, request filed on paper—\$200.00
- (ii) For a certificate of correction of registrant's error, request filed through TEAS—\$100.00
- (10) Disclaimer to a registration.
- (i) For filing a disclaimer to a registration, on paper—\$200.00
- (ii) For filing a disclaimer to a registration, through TEAS or ESTTA—\$100.00
- (11) Amendment of registration.
- (i) For filing an amendment to a registration, on paper—\$200.00
- (ii) For filing an amendment to a registration, through TEAS or ESTTA—\$100.00
- (12) Affidavit under section 8.
- (i) For filing an affidavit under section 8 of the Act on paper, per class—\$225.00
- (ii) For filing an affidavit under section 8 of the Act through TEAS, per class—\$125.00
- (13) Affidavit under section 15.
- (i) For filing an affidavit under section 15 of the Act on paper, per class—\$300.00
- (ii) For filing an affidavit under section 15 of the Act through TEAS, per class—\$200.00
- (14) Filing section 8 affidavit during grace period.
- (i) Additional fee for filing a section 8 affidavit during the grace period on paper, per class—\$200.00
- (ii) Additional fee for filing a section 8 affidavit during the grace period through TEAS, per class—\$100.00
- (15) Petitions to the Director.
- (i) For petitions to the Director filed on paper—\$200.00
- (ii) For petitions to the Director filed through TEAS—\$100.00
- (16) Petition to cancel.
- (i) For filing a petition to cancel on paper, per class—\$500.00
- (ii) For filing a petition to cancel through ESTTA, per class—\$400.00
- (17) Notice of opposition.
- (i) For filing a notice of opposition on paper, per class—\$500.00
- (ii) For filing a notice of opposition through ESTTA, per class—\$400.00
- (18) Ex parte appeal.
- (i) For ex parte appeal to the Trademark Trial and Appeal Board filed on paper, per class—\$300.00
- (ii) For ex parte appeal to the Trademark Trial and Appeal Board filed through ESTTA, per class—\$200.00
- (19) Dividing an application.
- (i) Request to divide an application filed on paper, per new application created—\$200.00
- (ii) Request to divide an application filed through TEAS, per new application created—\$100.00
- (20) Correcting deficiency in section 8 affidavit.
- (i) For correcting a deficiency in a section 8 affidavit via paper filing—\$200.00
- (ii) For correcting a deficiency in a section 8 affidavit via TEAS filing—\$100.00
- (21) Correcting deficiency in renewal application.
- (i) For correcting a deficiency in a renewal application via paper filing—\$200.00
- (ii) For correcting a deficiency in a renewal application via TEAS filing—\$100.00
- (22) Extension of time for filing notice of opposition under § 2.102(c)(1)(ii) or (c)(2).
- (i) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(1)(ii) or (c)(2) on paper—\$200.00
- (ii) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(1)(ii) or (c)(2) through ESTTA—\$100.00
- (23) Extension of time for filing notice of opposition under § 2.102(c)(3).
- (i) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(3) on paper—\$300.00
- (ii) For filing a request for an extension of time to file a notice of opposition under § 2.102(c)(3) through ESTTA—\$200.00
- (b) Trademark service fees.
- (1) For printed copy of registered mark, copy only. Service includes preparation of copies by the Office within two to three business days and delivery by United States Postal Service; and preparation of copies by the Office within one business day of receipt and delivery to an Office Box or by electronic means (e.g., facsimile, electronic mail)—\$3.00
- (2) Certified or uncertified copy of trademark application as filed processed within seven calendar days—\$15.00
- (3) Certified or uncertified copy of a trademark-related official record—\$50.00
- (4) Certified copy of a registered mark, showing title and/or status:
- (i) Regular service—\$15.00
- (ii) Expedited local service—\$30.00
- (5) Certified or uncertified copy of trademark records, per document except as otherwise provided in this section—\$25.00
- (6) For recording each trademark assignment, agreement or other document relating to the property in a registration or application
- (i) First property in a document—\$40.00
- (ii) For each additional property in the same document—\$25.00
- (7) For assignment records, abstract of title and certification, per registration—\$25.00
- (8) Additional Fee for Overnight Delivery—\$40.00
- (9) Additional Fee for Expedited Service—\$160.00
- (10) For processing each payment refused (including a check returned "unpaid") or charged back by a financial institution—\$50.00
- (11) Deposit account service charge for each month when the balance at the end of the month is below \$1,000—\$25.00
- 3. Amend § 2.200 to revise paragraph (b) to read as follows:
- § 2.200 Assignment records open to public inspection.**
- \* \* \* \* \*
- (b) An order for a copy of an assignment or other document should identify the reel and frame number where the assignment or document is recorded.
- 4. Amend § 2.208 to revise paragraph (a) to read as follows:
- § 2.208 Deposit accounts.**
- (a) For the convenience of attorneys, and the general public in paying any fees due, in ordering copies of records, or services offered by the Office, deposit accounts may be established in the Office. A minimum deposit of \$1,000 is required for paying any fees due or in ordering any services offered by the

Office. The Office will issue a deposit account statement at the end of each month. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit. An amount sufficient to cover all fees, copies, or services requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted. A service charge (§ 2.6(b)(11)) will be assessed for each month that the balance at the end of the month is below \$1,000.

\* \* \* \* \*

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

■ 5. 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.

■ 6. Revise § 7.6 to read as follows:

##### **§ 7.6 Schedule of U.S. process fees.**

(a) The Office requires the following process fees:

(1) Certification of international application based on single application or registration.

(i) For certifying an international application based on a single basic application or registration, filed on paper, per class—\$200.00

(ii) For certifying an international application based on a single basic application or registration, filed through TEAS, per class—\$100.00

(2) Certification of international application based on more than one application or registration.

(i) For certifying an international application based on more than one basic application or registration filed on paper, per class—\$250.00

(ii) For certifying an international application based on more than one basic application or registration filed through TEAS, per class—\$150.00

(3) Transmission of subsequent designation.

(i) For transmitting a subsequent designation under § 7.21, filed on paper—\$200.00

(ii) For transmitting a subsequent designation under § 7.21, filed through TEAS—\$100.00

(4) Transmission of request to record an assignment or restriction.

(i) For transmitting a request to record an assignment or restriction, or

release of a restriction, under § 7.23 or § 7.24 filed on paper—\$200.00

(ii) For transmitting a request to record an assignment or restriction, or release of a restriction, under § 7.23 or § 7.24 filed through TEAS—\$100.00

(5) Notice of replacement.

(i) For filing a notice of replacement under § 7.28 on paper, per class—\$200.00

(ii) For filing a notice of replacement under § 7.28 through TEAS, per class—\$100.00

(6) Affidavit under section 71.

(i) For filing an affidavit under section 71 of the Act on paper, per class—\$225.00

(ii) For filing an affidavit under section 71 of the Act through TEAS, per class—\$125.00

(7) Filing affidavit under section 71 during grace period.

(i) Surcharge for filing an affidavit under section 71 of the Act during the grace period on paper, per class—\$200.00

(ii) Surcharge for filing an affidavit under section 71 of the Act during the grace period through TEAS, per class—\$100.00

(8) Correcting deficiency in section 71 affidavit.

(i) For correcting a deficiency in a section 71 affidavit filed on paper—\$200.00

(ii) For correcting a deficiency in a section 71 affidavit filed through TEAS—\$100.00

(b) The fees required in paragraph (a) of this section must be paid in U.S. dollars at the time of submission of the requested action. *See* § 2.207 of this chapter for acceptable forms of payment and § 2.208 of this chapter for payments using a deposit account established in the Office.

Dated: October 17, 2016.

**Michelle K. Lee,**

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

[FR Doc. 2016–25506 Filed 10–20–16; 8:45 am]

**BILLING CODE 3510–16–P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA–R03–OAR–2016–0335; FRL–9954–29–Region 3]

#### **Approval and Promulgation of Air Quality Implementation Plans; Virginia; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving three state implementation plan (SIP) revisions submitted by the Commonwealth of Virginia (Virginia). These revisions include amendments to the Virginia Department of Environmental Quality's (VADEQ) regulations and address the requirement to adopt reasonably available control technology (RACT) for sources covered by EPA's Control Techniques Guidelines (CTG) standards for the following categories: Offset lithographic printing and letterpress printing, industrial solvent cleaning operations, miscellaneous industrial adhesives, and miscellaneous metal and plastic parts coatings. EPA is approving these revisions to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 21, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0335. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure 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 through <http://www.regulations.gov>, or please contact the person identified in the "For Further Information Contact" section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Leslie Jones Doherty, (215) 814–3409, or by email at [jones.leslie@epa.gov](mailto:jones.leslie@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

On August 23, 2016 (87 FR 57531), EPA published a notice of proposed