

U.S. Patent and Trademark Office, Commerce

§ 1.8

of a preliminary statement under §1.621; a transcript of a deposition under §1.676 or of interrogatories, or cross-interrogatories; or an evidentiary record and exhibits under §1.653.

(e) *Interruptions in U.S. Postal Service.* If interruptions or emergencies in the United States Postal Service which have been so designated by the Commissioner occur, the Patent and Trademark Office will consider as filed on a particular date in the Office any correspondence which is:

(1) Promptly filed after the ending of the designated interruption or emergency; and

(2) Accompanied by a statement indicating that such correspondence would have been filed on that particular date if it were not for the designated interruption or emergency in the United States Postal Service.

(f) *Facsimile transmission of a patent application under §1.53(d).* In the event that the Office has no evidence of receipt of an application under §1.53(d) (a continued prosecution application) transmitted to the Office by facsimile transmission, the party who transmitted the application under §1.53(d) may petition the Commissioner to accord the application under §1.53(d) a filing date as of the date the application under §1.53(d) is shown to have been transmitted to and received in the Office,

(1) Provided that the party who transmitted such application under §1.53(d):

(i) Informs the Office of the previous transmission of the application under §1.53(d) promptly after becoming aware that the Office has no evidence of receipt of the application under §1.53(d);

(ii) Supplies an additional copy of the previously transmitted application under §1.53(d); and

(iii) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous transmission of the application under §1.53(d) and is accompanied by a copy of the sending unit's report confirming transmission of the application under §1.53(d) or evidence that came into being after the complete transmission and within one business day of the complete transmission of the application under §1.53(d).

(2) The Office may require additional evidence to determine if the application under §1.53(d) was transmitted to and received in the Office on the date in question.

[58 FR 54501, Oct. 22, 1993; 58 FR 64154, Dec. 6, 1993; 61 FR 56447, Nov. 1, 1996; 62 FR 53180, Oct. 10, 1997; 64 FR 48917, Sept. 8, 1999; 65 FR 54657, Sept. 8, 2000; 65 FR 76772, Dec. 7, 2000]

§ 1.7 Times for taking action; Expiration on Saturday, Sunday or Federal holiday.

(a) Whenever periods of time are specified in this part in days, calendar days are intended. When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday. See §1.304 for time for appeal or for commencing civil action.

(b) If the day that is twelve months after the filing date of a provisional application under 35 U.S.C. 111(b) and §1.53(c) falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the period of pendency shall be extended to the next succeeding secular or business day which is not a Saturday, Sunday, or a Federal holiday.

[65 FR 14871, Mar. 20, 2000]

§ 1.8 Certificate of mailing or transmission.

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in §1.1(a) and deposited with the U.S. Postal