

■ 21. Section 1.979 is amended by revising its heading and paragraph (b) to read as follows:

**§ 1.979 Return of Jurisdiction from the Board of Patent Appeals and Interferences; termination of appeal proceedings.**

\* \* \* \* \*

(b) Upon judgment in the appeal before the Board of Patent Appeals and Interferences, if no further appeal has been taken (§ 1.983), the prosecution in the *inter partes* reexamination proceeding will be terminated and the Director will issue and publish a certificate under § 1.997 concluding the proceeding. If an appeal to the U.S. Court of Appeals for the Federal Circuit has been filed, that appeal is considered terminated when the mandate is issued by the Court.

■ 22. Section 1.983 is amended by revising paragraph (a) to read as follows:

**§ 1.983 Appeal to the United States Court of Appeals for the Federal Circuit in *inter partes* reexamination.**

(a) The patent owner or third party requester in an *inter partes* reexamination proceeding who is a party to an appeal to the Board of Patent Appeals and Interferences and who is dissatisfied with the decision of the Board of Patent Appeals and Interferences may, subject to § 41.81, appeal to the U.S. Court of Appeals for the Federal Circuit and may be a party to any appeal thereto taken from a reexamination decision of the Board of Patent Appeals and Interferences.

\* \* \* \* \*

■ 23. Section 1.989 is amended by revising paragraph (a) to read as follows:

**§ 1.989 Merger of concurrent reexamination proceedings.**

(a) If any reexamination is ordered while a prior *inter partes* reexamination proceeding is pending for the same patent and prosecution in the prior *inter partes* reexamination proceeding has not been terminated, a decision may be made to merge the two proceedings or to suspend one of the two proceedings. Where merger is ordered, the merged examination will normally result in the issuance and publication of a single reexamination certificate under § 1.997.

\* \* \* \* \*

■ 24. Section 1.991 is revised to read as follows:

**§ 1.991 Merger of concurrent reissue application and *inter partes* reexamination proceeding.**

If a reissue application and an *inter partes* reexamination proceeding on which an order pursuant to § 1.931 has been mailed are pending concurrently

on a patent, a decision may be made to merge the two proceedings or to suspend one of the two proceedings. Where merger of a reissue application and an *inter partes* reexamination proceeding is ordered, the merged proceeding will be conducted in accordance with §§ 1.171 through 1.179, and the patent owner will be required to place and maintain the same claims in the reissue application and the *inter partes* reexamination proceeding during the pendency of the merged proceeding. In a merged proceeding the third party requester may participate to the extent provided under §§ 1.902 through 1.997 and 41.60 through 41.81, except that such participation shall be limited to issues within the scope of *inter partes* reexamination. The examiner's actions and any responses by the patent owner or third party requester in a merged proceeding will apply to both the reissue application and the *inter partes* reexamination proceeding and be physically entered into both files. Any *inter partes* reexamination proceeding merged with a reissue application shall be concluded by the grant of the reissued patent.

■ 25. Section 1.997 is amended by revising its heading and paragraphs (a), (b), and (d) to read as follows:

**§ 1.997 Issuance and publication of *inter partes* reexamination certificate concludes *inter partes* reexamination proceeding.**

(a) To conclude an *inter partes* reexamination proceeding, the Director will issue and publish an *inter partes* reexamination certificate in accordance with 35 U.S.C. 316 setting forth the results of the *inter partes* reexamination proceeding and the content of the patent following the *inter partes* reexamination proceeding.

(b) A certificate will be issued and published in each patent in which an *inter partes* reexamination proceeding has been ordered under § 1.931. Any statutory disclaimer filed by the patent owner will be made part of the certificate.

\* \* \* \* \*

(d) If a certificate has been issued and published which cancels all of the claims of the patent, no further Office proceedings will be conducted with that patent or any reissue applications or any reexamination requests relating thereto.

\* \* \* \* \*

**PART 41—PRACTICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

■ 26. The authority citation for 37 CFR part 41 continues to read as follows:

**Authority:** 35 U.S.C. 2(b)(2), 3(a)(2)(A), 21, 23, 32, 41, 134, 135.

■ 27. Section 41.4 is amended by revising paragraph (b) to read as follows:

**§ 41.4 Timeliness.**

\* \* \* \* \*

(b) *Late filings.* (1) A late filing that results in either an application becoming abandoned or a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b) of this title or limited under § 1.957(c) of this title may be revived as set forth in § 1.137 of this title.

(2) A late filing that does not result in either an application becoming abandoned or a reexamination prosecution becoming terminated under §§ 1.550(d) or 1.957(b) of this title or limited under § 1.957(c) of this title will be excused upon a showing of excusable neglect or a Board determination that consideration on the merits would be in the interest of justice.

\* \* \* \* \*

Dated: April 9, 2007.

**Jon W. Dudas,**

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

[FR Doc. E7-7202 Filed 4-13-07; 8:45 am]

BILLING CODE 3510-16-P

**DEPARTMENT OF COMMERCE**

**Patent and Trademark Office**

**37 CFR Parts 2 and 7**

[Docket No.: PTO-T-2007-0005]

RIN 0651-AC11

**Correspondence With the Madrid Processing Unit of the United States Patent and Trademark Office**

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

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) revises the rules of practice to change the address for correspondence with the Madrid Processing Unit of the Office. The Office relocated to Alexandria, Virginia, in 2004, and hereby changes the address for correspondence with the Office relating to filings pursuant to the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks to an Alexandria, Virginia address.

**DATES:** *Effective Date:* The changes in this final rule are effective April 16, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Chicoski, Office of the Commissioner for Trademarks, (571) 272-8943, or via e-mail at [Jennifer.chicoski@uspto.gov](mailto:Jennifer.chicoski@uspto.gov).

**SUPPLEMENTARY INFORMATION:**

In connection with the relocation of the Office to Alexandria, Virginia, in 2004, the Office previously changed most of its correspondence addresses so that correspondence has been routed through a United States Postal Service (USPS) facility that is more conveniently located to the Office. A post office box had been retained in Arlington, Virginia, the previous location of the Office, for the acceptance of certain correspondence, including submissions to the Madrid Processing Unit (MPU) of the Office.

The Office has now made arrangements so that correspondence to the MPU may be routed to the Office at its current location. In connection with the address change, the USPS has provided a separate routing +4 zip code to distinguish mail for the MPU from other Office mail, and all correspondence to the MPU should now be sent to the Office's main headquarters, addressed with the separate routing +4 zip code.

The Office appreciates that it will take some period of time for all persons filing correspondence with the MPU to become accustomed to the address change. Although the address change is effective immediately, the Office plans to arrange for continued delivery of correspondence addressed to the MPU's former Arlington, Virginia 22215 address as a courtesy for a limited period of time. The Office cannot ensure the availability of the Arlington, Virginia Post Office Box for receipt of MPU correspondence after October 31, 2007.

The Office also is adding reference to a particular type of correspondence, requests to note replacements under § 7.28, that are presently not identified in the rule as being accepted by mail or via hand delivery, in order to clarify that the Office does accept such requests by mail or by hand during the hours the Office is open to receive correspondence.

**Discussion of Specific Rules**

The Office is amending §§ 2.190(e) and 7.4(b) to provide that international applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacement under § 7.28, requests for transformation

under § 7.31, and petitions to the Director to review an action of the Office's MPU, when filed by mail, must be addressed to: Madrid Processing Unit, 600 Dulany Street, MDE-7B87, Alexandria, VA 22314-5793. The Office is amending § 7.4(b)(2) to add that requests to note replacement under § 7.28, when filed by mail, will be accorded the date of receipt in the Office. The Office is amending § 7.4(c) to add requests to note replacement under § 7.28 to the list of correspondence that may be hand-delivered to the Office.

**Rule Making Requirements**

*Administrative Procedure Act:* Since this final rule is directed to changing the address for filing certain correspondence with the Office, this final rule merely involves rules of agency organization, procedure, or practice within the meaning of 5 U.S.C. 553(b)(A). Accordingly, this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

*Regulatory Flexibility Act:* As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. See 5 U.S.C. 603.

*Executive Order 13132:* This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

*Executive Order 12866:* This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

*Paperwork Reduction Act:* This rule making does not create any new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. The collection of this information has been approved by OMB under control number 0651-0055.

**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 given in the preamble and under the authority contained in 15 U.S.C. 1123 and 35 U.S.C. 2, as amended, the Office is amending parts 2 and 7 of Title 37 of the Code of Federal Regulations, as follows:

**PART 2—RULES OF PRACTICE IN TRADEMARK CASES**

■ 1. The authority citation for part 2 continues to read:

**Authority:** 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 2. Amend § 2.190 by revising paragraph (e) to read as follows:

**§ 2.190 Addresses for trademark correspondence with the United States Patent and Trademark Office.**

\* \* \* \* \*

(e) *Certain Documents Relating to International Applications and Registrations.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacements under § 7.28, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office's Madrid Processing Unit, when filed by mail, must be mailed to: Madrid Processing Unit, 600 Dulany Street, MDE-7B87, Alexandria, VA 22314-5793.

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

■ 3. The authority citation for part 7 continues to read:

**Authority:** 15 U.S.C. 1135, 35 U.S.C. 2, unless otherwise noted.

■ 4. Amend § 7.4 by revising paragraphs (b) introductory text, (b)(2) and (c) to read as follows:

**§ 7.4 Receipt of correspondence.**

\* \* \* \* \*

(b) *Correspondence Filed By Mail.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacement under § 7.28, requests for transformation under § 7.31, and

petitions to the Director to review an action of the Office's Madrid Processing Unit, when filed by mail, must be addressed to: Madrid Processing Unit, 600 Dulany Street, MDE-7B87, Alexandria, VA 22314-5793.

(1) \* \* \*

(2) Responses to notices of irregularity under § 7.14, requests to note replacement under § 7.28, and requests for transformation under § 7.31, when filed by mail, will be accorded the date of receipt in the Office.

(c) *Hand-Delivered Correspondence.* International applications under § 7.11, subsequent designations under § 7.21, responses to notices of irregularity under § 7.14, requests to record changes in the International Register under § 7.23 and § 7.24, requests to note replacement under § 7.28, requests for transformation under § 7.31, and petitions to the Director to review an action of the Office's Madrid Processing Unit, may be delivered by hand during the hours the Office is open to receive correspondence. Madrid-related hand-delivered correspondence must be delivered to the Trademark Assistance Center, James Madison Building—East Wing, Concourse Level, 600 Dulany Street, Alexandria, VA 22314, Attention: MPU.

\* \* \* \* \*

Dated: April 9, 2007.

**Jon W. Dudas,**

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

[FR Doc. E7-7116 Filed 4-13-07; 8:45 am]

BILLING CODE 3510-16-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Parts 405, 410, 411, 414, 415, and 424

[CMS-1321-F2]

RIN 0938-AN84

#### Medicare Program; Revisions to Payment Policies, Five-Year Review of Work Relative Value Units, and Changes to the Practice Expense Methodology Under the Physician Fee Schedule, and Other Changes to Payment Under Part B; Correcting Amendment

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Correcting amendment.

**SUMMARY:** This correcting amendment corrects several technical and typographical errors in the final rule with comment period that appeared in the December 1, 2006 **Federal Register** (71 FR 69624). The final rule with comment period addressed Medicare Part B payment policy, including the physician fee schedule (PFS) that is applicable for calendar year (CY) 2007; payment for covered outpatient drugs and biologicals; payment for renal dialysis services; and policies related to independent diagnostic testing facilities (IDTFs). The final rule with comment period also updated the list of certain services subject to the physician self-referral prohibitions.

**DATES:** *Effective Date:* Pursuant to section 1871(e) of the Act, except for the corrections to § 410.33, this correcting amendment is effective January 1, 2007. The corrections to § 410.33 are effective April 16, 2007.

**FOR FURTHER INFORMATION CONTACT:** Diane Milstead, (410) 786-3355.

#### **SUPPLEMENTARY INFORMATION:**

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

FR Doc. 06-9086 (71 FR 69624), the final rule with comment period entitled "Medicare Program; Revisions to Payment Policies, Five-Year Review of Work Relative Value Units, and Changes to the Practice Expense Methodology Under the Physician Fee Schedule, and Other Changes to Payment Under Part B; Revisions to the Payment Policies of Ambulance Services Under the Fee Schedule for Ambulance Services; Ambulance Inflation Factor Update for CY 2007" (hereinafter referred to as the CY 2007 PFS final rule with comment period), contained technical and typographical errors. Some of these technical and typographical errors were addressed in the correction notice that appeared in the December 8, 2006 **Federal Register** (71 FR 58415). Additional errors have been identified in the CY 2007 PFS final rule with comment period and are addressed in this correcting amendment.

##### **II. Errors in the Preamble**

###### *A. Summary of Errors in the Preamble*

In the preamble of the CY 2007 PFS final rule with comment period, there were a number of technical errors and omissions.

On page 69635, following the section heading titled, "(vi) Equipment Cost Per Minute," there was an error in the formula for calculating the equipment cost per minute.

On page 69647, language was inadvertently omitted from the response concerning cardiac monitoring services.

On page 69654, in Table 5, "Practice Expense Supply Item Additions for CY 2007", we incorrectly included a supply item and failed to include the unit price of another item.

On page 69663, the word "an" was incorrectly typed to read "as" in two places.

On page 69671, the word "not" was incorrectly included in a sentence.

On page 69677, the word "of" was missing from a sentence.

On page 69688, under the section heading titled, "d. "ESRD Wage Index Tables," the references to addenda were incorrect.

On page 69696, the word "supplier" was misspelled.

On page 69699 in the narrative concerning revisions to the performance standards for IDTFs, we inadvertently omitted language specifying that paragraphs (g) and (h) are not applicable to those services included in § 410.33(a)(2). We also inadvertently included language requiring IDTFs to list serial numbers and that was not our intention.

On pages 69744, the narrative concerning Table 17 contained several errors.

On pages 69746, certain CPT codes were incorrectly included in Table 17.

On page 69747, we incorrectly included a discussion about gold markers for CPT code 55876.

On page 69748, the word "radiology" was incorrectly stated as "radiation."

On page 69749, the word "of" should be removed from the phrase "radiology of and certain other imaging services."

On pages 69749 and 69750, in Table 18, under the subheading, "Radiology and certain other imaging services," we made errors in the descriptors for CPT codes 0174T and 0175T and HCPCS codes A9567, A9568, Q9952, and Q9953.

On page 69750, in Table 19, we omitted CPT codes 78350 and G0243.

On page 69760, language was omitted from the formula.

On pages 69769 and 69770, in Table 36, "Impact of Final Rule with Comment Period and Estimated Physician Update on 2007 Payment for Selected Procedures", we identified errors in the new payment amounts for the following CPT and HCPCS codes: 27130, 27244, 27447, 33533, 35301, 43239, 77056, 77056-26, 77057, 77057-26, 92980, 93000, 93015 and G0317.

Corrections to these errors are reflected in section II.B. of this correcting amendment.

###### *B. Correction of Errors in the Preamble*

1. On page 69635, in the 3rd column, under the discussion titled, "(vi)