

These are the comments of Fross Zelnick Lehrman & Zissu, P.C., a New York-based law firm that practices extensively in the field of trademark law, in response to the Request for Comments on Development of a Plan to Remove the Patent and Trademark Classified Paper Files from the Public Search Facilities (the "Notice"). The initial comment period was scheduled to end September 26, 2001, but was extended to October 29, 2001.

The Notice states that the agency "intends to formalize a plan to eliminate the paper collections of patents and trademark registrations and is providing the public with an opportunity to comment on the appropriate scope and contents of the plan that the USPTO is required to submit to the Committees on the Judiciary of the Senate and House of Representatives".

However, on October 18, 2001 – during the pendency of the public comment period on this issue – the Office issued a notice entitled "Discontinued Support for the Paper Classified Drawing Collection" which states it intends to discontinue adding drawing pages from new applications to the paper classified files, effective November 5, 2001. We do not understand how such an action can be taken when no plan for eliminating the paper files has yet been developed or submitted to Congress for approval. This action will immediately undermine the classified paper files collection, before the Office has demonstrated that its electronic systems are a suitable and sufficient replacement.

Moreover, the October 18 memo reminds patrons that a form entitled the "On-line/Electronic Database Discrepancy Form" exists for correcting "discrepancies found in the various products". By making such a form available, the Office acknowledges that its electronic systems, like all such databases, are vulnerable to errors and omissions. It may be more difficult to reconcile these discrepancies if the paper classified files are not maintained.

Any plan to eliminate the classified paper files must provide a means for the Office to demonstrate that its electronic systems are complete, accurate, reliable, safely backed-up at one or more off-site locations, immune to attacks by hackers, and readily available to the public in a cost-effective fashion. The classified paper files, including the Paper Classified Drawing Collection, should be maintained until the Office demonstrates that its electronic systems satisfy these criteria.

These comments were prepared by J. Allison Strickland and other partners of the firm. Thank you for the opportunity to submit these comments.

Respectfully submitted,

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