

**United States Postal Service Interruption and Emergency under
35 U.S.C. § 21(a) and 37 CFR 1.10(i)**

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by a series of hurricanes that started with Hurricane Frances in Florida on September 3, 2004 as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i).

Postal services in Florida, Alabama, Mississippi, Louisiana, Georgia, Puerto Rico, U.S. Virgin Islands, West Virginia, Ohio, Pennsylvania, Maryland, and Virginia have been suspended intermittently since Friday, September 3, 2004, due to a series of hurricanes (Frances, Ivan, and Jeanne) that have affected these areas. To determine whether a post office has been closed or postal services suspended in a particular area due to these hurricanes, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>.

37 CFR 1.10(i) (effective September 21, 2004) addresses interruptions or emergencies in USPS "Express Mail Post Office to Addressee" service that are designated by the Director. See Changes To Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 69 Fed. Reg. 56482, 56490-91, 56536 (Sept. 21, 2004) (final rule) (also available on the USPTO's Web site at <http://www.uspto.gov>). Correspondence covered by 37 CFR 1.10 (non-trademark correspondence) that would have been filed with the USPTO under 37 CFR 1.10 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 1.10(i) using "Express Mail" service in accordance with 37 CFR 1.10.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or "Express Mail" service suspended in the affected areas on the specified date due to the hurricanes.

37 CFR 1.10(i) provides that any person attempting to file correspondence by "Express Mail Post Office to Addressee" service that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director may petition the Director to consider such correspondence as filed on a particular date in the Office. 37 CFR 1.10(i) specifically provides that: any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:

- (1) the petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in "Express Mail" service;
- (2) the petition includes the original correspondence or a copy of the original correspondence; and

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

As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post updated information regarding this situation on the USPTO Web site (<http://www.uspto.gov>) and in the Official Gazette.

Inquiries concerning this notice may be directed to Fred Silverberg by e-mail at fred.silverberg@uspto.gov or by telephone at 703-305-8986 or 571-272-7719.

Date: _____ 9/27/04 _____

_____/s/_____
Nicholas P. Godici
Commissioner for Patents