



Billing Code: 3510-16

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No. PTO-T-2016-0002]

RIN 0651-AD07

Changes in Requirements for Affidavits or Declarations of Use, Continued Use, or Excusable Nonuse in Trademark Cases

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” this action delays for 60 days the effective date of the final rule entitled “Changes in Requirements for Affidavits or Declarations of Use, Continued Use, or Excusable Nonuse in Trademark Cases,” published in the Federal Register on January 19, 2017. The 60-day delay in effective date is necessary to give agency officials the opportunity for further review of the issues of law and policy raised by this rule.

DATES: The effective date of FR Doc. 2017-00317, published in the Federal Register on January 19, 2017 (82 FR 6259), is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Catherine Cain, Office of the Deputy Commissioner for Trademark Examination Policy, by e-mail at TMFRNotices@uspto.gov, or by telephone at (571) 272-8946.

SUPPLEMENTARY INFORMATION: On January 19, 2017, the United States Patent and Trademark Office (USPTO or Office) published in the Federal Register a final rule entitled “Changes in Requirements for Affidavits or Declarations of Use, Continued Use, or Excusable Nonuse in Trademark Cases.” In that action, the USPTO amended its rules concerning the examination of affidavits or declarations of continued use or excusable nonuse filed pursuant to section 8 of the Trademark Act, or affidavits or declarations of use in commerce or excusable nonuse filed pursuant to section 71 of the Act, to allow the USPTO to require additional proof of use to verify the accuracy of claims that a trademark is in use in commerce in connection with particular goods/services identified in the registration.

In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review,” this action delays the effective date of that final rule 60 days from the date of the January 20, 2017 memo. The effective date of the January 19, 2017 final rule, which would have been February 17, 2017, is now March 21, 2017. The 60-day delay in the effective date is necessary to give agency officials the opportunity for further review of the issues of law and policy raised by the rule.

Rulemaking Requirements

Administrative Procedure Act: The Director of the USPTO finds good cause under 5 U.S.C. 553(b)(B) and (d)(3) to waive the notice and comment procedure and the 30-day delay in the effective date because it is impracticable and contrary to the public interest. A delay in effective date is necessary to give agency officials the opportunity for further review of the issues of law and policies raised by the rule before the final rule becomes effective on February 17, 2017. If this rule was delayed to provide for the procedural requirements under 5 U.S.C. 553, the final

rule published on January 19, 2017 would be allowed to go into effect, thus negating the objectives of the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this rule.

Dated: February 6, 2017.

Michelle K. Lee
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
[FR Doc. 2017-02796 Filed: 2/9/2017 8:45 am; Publication Date: 2/10/2017]