

United States Postal Service Interruption and Emergency Under 35 U.S.C. 21(a)

The United States Patent and Trademark Office (USPTO or Office) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by the winter storm in Texas, Louisiana, Arkansas, Mississippi, and Alabama beginning on Tuesday, February 16, 2021, as a postal service interruption and emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.10(i) and 2.195(d).

Postal services in Texas, Louisiana, Arkansas, Mississippi, and Alabama have been impacted by the winter storm to varying degrees beginning on February 16, 2021. To determine whether a post office has been closed or reopened, or whether postal services have been suspended or resumed in a particular area in Texas, Louisiana, Arkansas, Mississippi, and Alabama due to the winter storm, contact the post office directly or visit the USPS's website at www.usps.com. More specific information should be available at <https://about.usps.com/newsroom/service-alerts/>.

Once the USPS, through its website, has notified the public that this interruption in the service of the USPS has ended, the designation of this interruption and emergency within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.10(i) and 2.195(d) will terminate without further notice from the USPTO.

Patent-Related Correspondence

37 CFR 1.10(i) addresses interruptions or emergencies in USPS Priority Mail Express[®] Post Office to Addressee service that are designated as such by the Director for patent-related correspondence. Correspondence covered by 37 CFR 1.10 that would have been filed with the USPTO under 37 CFR 1.10 during this USPS service interruption, but that 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 Priority Mail Express[®] 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 where correspondence would have been deposited with the USPS but for the designated interruption or emergency in Priority Mail Express[®] service. The provisions of 35 U.S.C. 21(a) and 37 CFR 1.10(i) do not apply to other emergencies, 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 Priority Mail Express[®] service suspended in the affected areas on the specified dates due to the winter storm in Texas, Louisiana, Arkansas, Mississippi, and Alabama.

37 CFR 1.10(i) provides that any person attempting to file correspondence by Priority Mail Express[®] Post Office to Addressee service that was unable to be deposited with the USPS due to an interruption or emergency in that 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.

In accordance with 37 CFR 1.10, the petition must:

- (1) Be filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in Priority Mail Express[®] service;

- (2) Include the original correspondence or a copy of the original correspondence; and
- (3) Include a statement that 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 Priority Mail Express[®] 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.

If the provisions set forth in this notice do not apply, relief may be available on petition to the Office. See, e.g., 37 CFR 1.183.

Patent-related inquiries concerning this notice may be directed to Eugenia A. Jones, Senior Legal Advisor, at 571-272-7727, or Erin M. Harriman, Senior Legal Advisor, at 571-272-7747, Office of Patent Legal Administration; or by email to PatentPractice@uspto.gov.

Trademark-Related Correspondence

In general, customers may *not* submit any trademark filings through the USPS. With limited exceptions, all trademark correspondence must be submitted through the Trademark Electronic Application System. 37 CFR 2.23(a). If one of the exceptions applies, information about filing during a postal service interruption is provided below.

37 CFR 2.195(d) addresses interruptions or emergencies in USPS Priority Mail Express[®] Post Office to Addressee service that are designated as such by the Director for trademark-related correspondence. Correspondence covered by 37 CFR 2.198 that would have been filed with the USPTO using the Priority Mail Express[®] Post Office to Addressee service, but that was not filed due to the interruption, should be filed promptly after the termination of the USPS service interruption with a petition, in accordance with 37 CFR 2.146 and 2.195(d).

The provisions of 35 U.S.C. 21(a) and 37 CFR 2.195(d) apply only to postal interruptions and emergencies where correspondence would have been deposited with the USPS but for the designated interruption or emergency in Priority Mail Express[®] service. These provisions do not apply to other emergencies, 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 Priority Mail Express[®] service suspended in the affected areas on the specified dates due to the winter storm in Texas, Louisiana, Arkansas, Mississippi, and Alabama.

Under 37 CFR 2.195(d), any person attempting to file correspondence by Priority Mail Express[®] Post Office to Addressee service that was unable to be deposited with the USPS due to the interruption or emergency in that service in the areas designated in this notice may petition the Director to consider such correspondence as filed on a particular date in the Office.

The petition must:

- (1) Be filed promptly after the ending of the designated interruption or emergency in Priority Mail Express[®] service;
- (2) Include the original correspondence or a copy of the original correspondence; and

(3) Include a statement that establishes, to the satisfaction of the Director, that (a) the correspondence would have been deposited with the USPS but for the designated interruption or emergency in Priority Mail Express® service, and (b) 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.

Please note that, under 37 CFR 2.101(b)(3) and 2.102(a)(1), the Priority Mail Express® procedures cannot be used for the following types of correspondence: (1) notices of opposition to applications based on 15 U.S.C. 1141f(a), and (2) requests for extensions of time to oppose applications based on 15 U.S.C. 1141f(a). Therefore, it would be inappropriate to file a petition seeking a filing date as of the date of deposit of these types of correspondence with Priority Mail Express®.

The provisions of 37 CFR 2.195(d) on postal service interruptions or emergencies apply only to correspondence filed using the Priority Mail Express® Post Office to Addressee service and do not apply to correspondence with a certificate of mailing pursuant to 37 CFR 2.197. Therefore, the petition procedure set forth in this notice is not appropriate for correspondence with a certificate of mailing.

If the provisions set forth in this notice do not apply, relief may be available on petition to the Office. See 37 CFR 2.146(a)(5).

Trademark-related inquiries concerning this notice may be directed to Charles Joyner, Office of the Deputy Commissioner for Trademark Examination Policy, at 571-272-8942; or by email to TMPolicy@uspto.gov.

Dated: 3/12/2021

/Andrew Hirshfeld/
Andrew Hirshfeld
Commissioner for Patents, Performing the Functions and Duties of
the Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office