

received by the USPTO and, for example, a sentence is missing on one page or a chemical structure is thought to have been changed.

Any decision dismissing a request to correct the electronic record would provide a two-month period to file a request for reconsideration of the decision, in accordance with 37 CFR 1.181(f).

The USPTO would not dispose of a paper for which, within sufficient time prior to disposal of the paper, a *bona fide* request to correct the electronic record of the paper has been filed and remains outstanding at the time the paper would have been scheduled for disposal. A request would be a *bona fide* request when it specifically points out the error(s) in the paper and is accompanied by any necessary evidence. A general allegation that a paper requires correction filed without evidentiary support would not be a *bona fide* request. It would be inadequate to stay the disposal of the paper and would be dismissed. Once filed, a *bona fide* request to correct the electronic record would remain outstanding unless the USPTO has either (1) Issued a decision granting either the original request or a request for reconsideration of the original request, or (2) issued a final agency decision denying a request for reconsideration of the original request.

If the USPTO adopts the one-year retention period proposed in this notice, a patent applicant, patent owner, or reexamination party who is considering filing a request to correct the electronic record of a paper, but who cannot establish that the need for correction was caused by the USPTO, would be advised to not file the request. Other options for relief may be available when it cannot be established that the need for correction was caused by the USPTO. For example, an amendment under 37 CFR 1.57(a) may be filed to address the problem of an application filed with inadvertently omitted material when the application contains a claim under 37 CFR 1.55 for priority of a prior-filed foreign application, or a claim under 37 CFR 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application. See MPEP § 201.17. As another example, an amendment may be filed to correct an obvious error, along with any evidence, such as an expert declaration, necessary to establish that one of ordinary skill in the art would recognize both the existence of the error and the appropriate correction. See MPEP § 2163.07, II.

If the USPTO adopts the one-year retention period proposed in this notice,

a patent applicant, patent owner, or reexamination party may file a request to correct the electronic record of a paper after the one-year retention period, if the evidence is believed to establish that the need for correction was caused by the USPTO, and the initial submission date of the paper needs to be secured for the information being corrected. The USPTO likely would have disposed of any paper for which a request to correct the electronic record is filed after the one-year retention period. Therefore, the typical request for correction filed after the one-year retention period would have to overcome the presumption that the electronic record of the paper in IFW or SCORE is accurate and correction is not merited. For certain instances, e.g., when a paper was inadvertently not scanned into SCORE or placed into an Artifact Folder, there would be a black and white image of the paper in IFW that could be used to corroborate any submitted evidence.

The proposed procedure set forth in this notice for filing a request to correct the electronic record of a paper that has been scanned into IFW or SCORE would not be a replacement for the USPTO's established procedure for responding to a notice (e.g., a "Notice of Omitted Item(s) in a Nonprovisional Application") from the Office of Patent Application Processing (OPAP) indicating that the application papers have been accorded a filing date, but are lacking some page(s) of the specification or some of the figures of drawings described in the specification. Applicants would continue to follow the procedure set forth at *Change in Procedure for Handling Nonprovisional Applications Having Omitted Items*, 1315 *Off. Gaz. Pat. Office* 103 (February 20, 2007), when responding to such a notice from OPAP.

In addition, the proposed procedure set forth in this notice for filing a request to correct the electronic record of a paper that has been scanned into IFW or SCORE would be generally applicable only to situations in which a certain document, or one or more pages of a certain document, contains an error caused by the USPTO that requires correction. The proposed procedure set forth in this notice would not be a replacement for the USPTO's file reconstruction procedures (37 CFR 1.251 and MPEP § 508.04). Paper sources for the image files in IFW are boxed in the order that they are scanned, rather than by application number or reexamination control number, such that a request to correct requiring the retrieval of papers from

multiple boxes could not be reasonably effected.

Dated: August 17, 2011.

**David J. Kappos,**

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

[FR Doc. 2011-21964 Filed 8-26-11; 8:45 am]

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## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10 a.m., Friday, September 2, 2011.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** *Surveillance and Enforcement Matters.* In the event that the times or dates of these or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at <http://www.cftc.gov>.

**CONTACT PERSON FOR MORE INFORMATION:** Sauntia S. Warfield, 202-418-5084.

**Sauntia S. Warfield,**

*Assistant Secretary of the Commission.*

[FR Doc. 2011-22148 Filed 8-25-11; 4:15 pm]

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## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** 10 a.m., Friday, September 9, 2011.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Commission Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** *Surveillance and Enforcement Matters.* In the event that the times or dates of these or any future meetings change, an announcement of the change, along with the new time and place of the meeting will be posted on the Commission's Web site at <http://www.cftc.gov>.

**CONTACT PERSON FOR MORE INFORMATION:** Sauntia S. Warfield, 202-418-5084.

**Sauntia S. Warfield,**

*Assistant Secretary of the Commission.*

[FR Doc. 2011-22152 Filed 8-25-11; 4:15 pm]

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