

Protecting Your Trademark

ENHANCING YOUR RIGHTS THROUGH FEDERAL REGISTRATION

**Basic Facts About Trademarks
United States Patent and Trademark Office**

UNITED STATES
PATENT AND TRADEMARK OFFICE



Our website resources



For general information and links to Frequently Asked Questions, processing timelines, the [Trademark Manual of Examining Procedure \(TMEP\)](#)^[2], and the [Acceptable Identification of Goods and Services Manual \(ID Manual\)](#)^[3].



[Trademark Information Network \(TMIN\) Videos](#)^[4]

Protecting Your Trademark

Enhancing Your Rights Through Federal Registration

Tools



TESS

Search pending and registered marks using the [Trademark Electronic Search System \(TESS\)](#)^[5].



TEAS

File applications and other documents online using the [Trademark Electronic Application System \(TEAS\)](#)^[6].



TSDR

Check the status of an application and view and download application and registration records using [Trademark Status and Document Retrieval \(TSDR\)](#)^[7].



ASSIGNMENTS

Transfer (assign) ownership of a mark to another entity or change the owner name and search the [Assignments database](#)^[8].



TTAB

Visit the [Trademark Trial and Appeal Board \(TTAB\)](#)^[9] online.



United States Patent and Trademark Office
An Agency of the United States
Department of Commerce

CONTENTS

MEET THE USPTO 1

TRADEMARK, COPYRIGHT, OR PATENT 2

CONSIDERATIONS FOR FEDERAL REGISTRATION WHEN SELECTING A MARK 3

TRADEMARK SEARCHING 9

HIRING AN ATTORNEY 10

SHOULD I REGISTER MY MARK? 11

WHAT THE USPTO DOES AND DOES NOT DO 12

HOW TO FILE A TRADEMARK APPLICATION 13

WHAT A FILING DATE IS AND HOW IT IS DETERMINED 14

WHAT TO INCLUDE IN YOUR APPLICATION TO GET A FILING DATE 14

OWNER (APPLICANT) NAME AND ENTITY TYPE 15

OWNER DOMICILE AND E-MAIL ADDRESSES 15

ATTORNEY NAME AND POSTAL AND E-MAIL ADDRESSES 16

DEPICTION OF THE MARK (“THE DRAWING”) 17

GOODS/SERVICES 18

APPLICATION FILING FEE 19

OTHER INFORMATION TO INCLUDE IN THE APPLICATION 20

BASIS FOR FILING 20

SPECIMEN FOR USE-BASED APPLICATIONS 22

SIGNATURE 25

WHAT HAPPENS AFTER FILING AND WHAT TO DO 26

LEGAL AND PROCEDURAL REVIEW OF APPLICATION 27

PUBLICATION FOR OPPOSITION 27

WHAT HAPPENS AFTER PUBLICATION? 27

REGISTRATION CERTIFICATE ISSUES FOR “USE-IN-COMMERCE” APPLICATION 28

NOTICE OF ALLOWANCE (NOA) ISSUES FOR “INTENT-TO-USE” APPLICATION 28

HOW TO ESTABLISH USE OF THE MARK FOR AN “INTENT-TO-USE” APPLICATION 28

MAINTAINING A FEDERAL TRADEMARK REGISTRATION 29

FEEES FOR FILING TRADEMARK-RELATED DOCUMENTS 30

FOR MORE INFORMATION 30

SECTION 1(B) TIMELINE: APPLICATION BASED ON “INTENT-TO-USE” 31

LINK DIRECTORY FOR PRINTED MATERIAL 33



MEET THE USPTO

The United States Patent and Trademark Office (USPTO) is a fee-funded agency of the U.S. Department of Commerce. The role of the USPTO is to grant patents for the protection of inventions and to register trademarks and service marks for products and services, respectively. It serves the interests of small and large businesses as well as consumers, and helps strengthen the economy by promoting the industrial and technological progress of the nation.

The Commissioner for Trademarks heads the trademark organization and ensures that the USPTO properly examines trademark applications and grants registrations when applicants are entitled to them; records ownership changes of trademarks; maintains search files and records of U.S. trademarks; and publishes and disseminates trademark information through resources such as this “Basic Facts About Trademarks” booklet.

TRADEMARK, COPYRIGHT, OR PATENT

What is a trademark or service mark?

- A trademark is generally a word, phrase, symbol, or design, or a combination thereof, that identifies and distinguishes the source of the goods of one party from those of others.
- A service mark is the same as a trademark, except that it identifies and distinguishes the source of a service rather than goods. Throughout this booklet, the terms “trademark” and “mark” refer to both trademarks and service marks.

Do trademarks, copyrights, and patents protect the same things?

No. Trademarks, copyrights, and patents protect different types of intellectual property. A trademark typically protects brand names and logos used on goods and services. A copyright protects an original artistic or literary work. A patent protects an invention. For example, if you invent a new kind of vacuum cleaner, you would apply for a patent to protect the invention itself. You would apply to register a trademark to protect the brand name of the vacuum cleaner. And you might register a copyright for the TV commercial that you use to market the product.

For copyright information, go to copyright.gov^[10]. For patent information, go to uspto.gov/patents^[11].

To help evaluate your overall awareness of intellectual property knowledge and to provide access to additional educational materials based on the assessment results, please use the [Intellectual Property Awareness Assessment tool](#)^[12].

How do domain names, business name registrations, and trademarks differ?

A domain name is part of a web address that links to the internet protocol address (IP address) of a particular website. For example, in the web address “http://www.uspto.gov,” the domain name is “uspto.gov.” You register your domain name with an accredited domain name registrar, not through the USPTO. A domain name and a trademark differ. A trademark identifies goods or services as being from a particular source. Use of a domain name only as part of a web address does not qualify as source-indicating trademark use, though other prominent use apart from the web address may qualify as trademark use. Registration of a domain name with a domain name registrar does not give you any trademark rights. For example, even if you register a certain domain name with a domain name registrar, you could later be required to surrender it if it infringes someone else’s trademark rights.

Similarly, use of a business name does not necessarily qualify as trademark use, though other use of a business name as the source of goods or services may qualify it as both a business name and a trademark. Many states and local jurisdictions register business names, either as part of obtaining a certificate to do business or as an assumed name filing. For example, in a state where you will be doing business, you might file documents (typically with a state corporation commission or

state division of corporations) to form a business entity, such as a corporation or limited liability company. You would select a name for your entity, for example, XYZ, Inc. If no other company has already applied for that exact name in that state and you comply with all other requirements, the state likely would issue you a certificate and authorize you to do business under that name. However, a state’s authorization to form a business with a particular name does not also give you trademark rights and other parties could later try to prevent your use of the business name if they believe a likelihood of confusion exists with their trademarks.

CONSIDERATIONS FOR FEDERAL REGISTRATION WHEN SELECTING A MARK

Once you determine that the type of protection you need is, in fact, trademark protection, then selecting a mark is the very first step in the overall application/registration process. This must be done with thought and care, because not every mark is registrable with the USPTO. Nor is every mark legally protectable. That is, some marks may not be capable of serving as the basis for a legal claim by the owner seeking to stop others from using a similar mark on related goods or services. Businesses and individuals new to trademarks and the application/registration process often choose a mark for their product or service that may be difficult or even impossible to register and/or protect for various reasons. Before filing a trademark/service mark application, you should consider (1) whether the mark you want to register is registrable, and (2) how difficult it will be to protect your mark based on the strength of the mark selected. Note in this regard that the USPTO only registers marks. You, as the mark owner, are solely responsible for enforcement.

Below are some factors to consider when choosing a mark. While the USPTO can provide the following general guidance, the agency does not advise you in advance of your filing an application whether your specific mark is registrable.

Likelihood of Confusion with Other Marks

The USPTO examines every application for compliance with federal law and rules. The most common reason to refuse registration is a “likelihood of confusion” between the mark of the applicant and a mark already registered or in a prior-filed pending application owned by another party. The USPTO determines that a likelihood of confusion exists when both (1) the marks are similar, and (2) the goods and/or services of the parties are related such that consumers would mistakenly believe they come from the same source. Similar marks or related goods/services by themselves are not enough to support a finding of a likelihood of confusion, unless a court has held that the mark is actually a famous mark. That is, generally two identical marks can coexist, so long as the goods and services are not related.

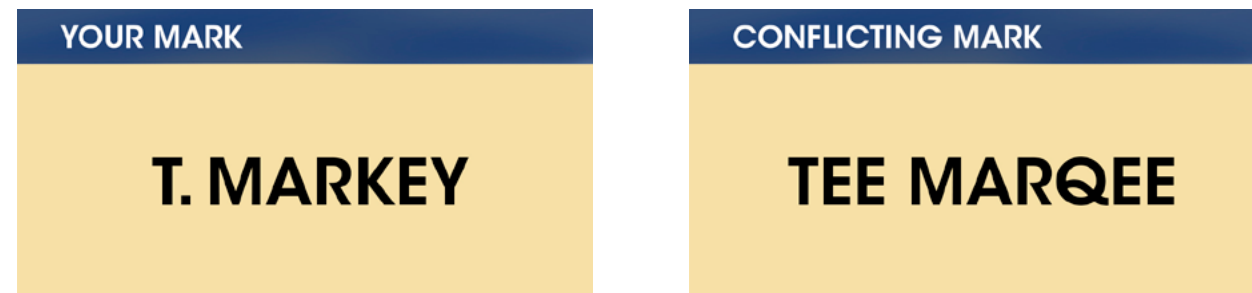
Each application is decided on its own facts and no simple mechanical test is used to determine whether a likelihood of confusion exists. Therefore, before filing your non-refundable application, it is very important for you to determine whether your proposed mark is likely to cause confusion with another mark. This determination can be made only after doing a thorough trademark search, as discussed below.

Similarity of Marks

To determine whether a likelihood of confusion exists, the marks are first examined for their similarities and differences. Note that in order to find a likelihood of confusion, the marks do not have to be identical. When marks sound alike when spoken, are visually similar, have the same meaning (even if in translation), and/or create the same general commercial impression in the consuming public’s mind, the marks may be considered confusingly similar. Similarity in sound, appearance, and/or meaning may be sufficient to support a finding of likelihood of confusion, depending on the relatedness of the goods and/or services.

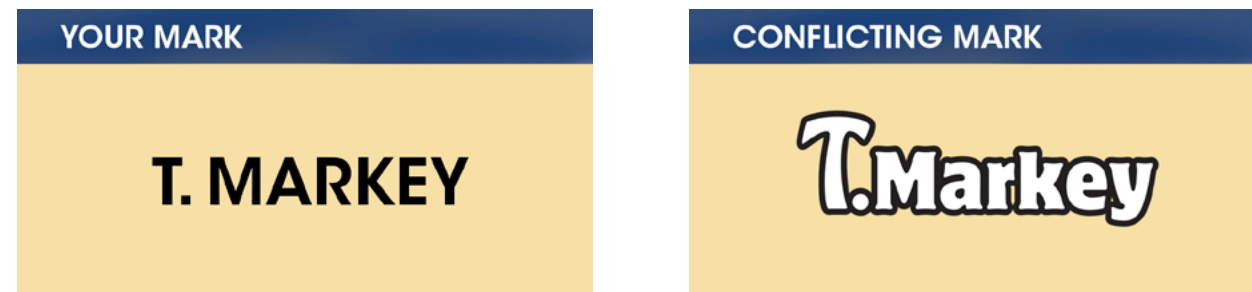
The following are examples of marks that would be considered similar:

Sound



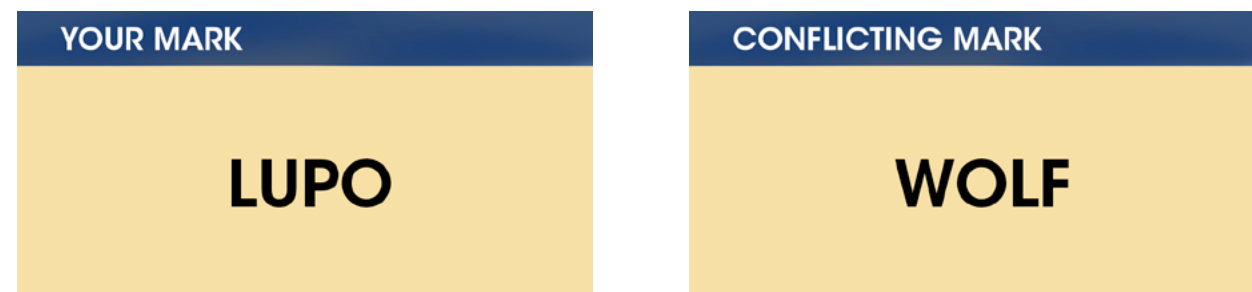
Although spelled differently, the marks sound alike; i.e., they are “phonetic equivalents.”

Appearance



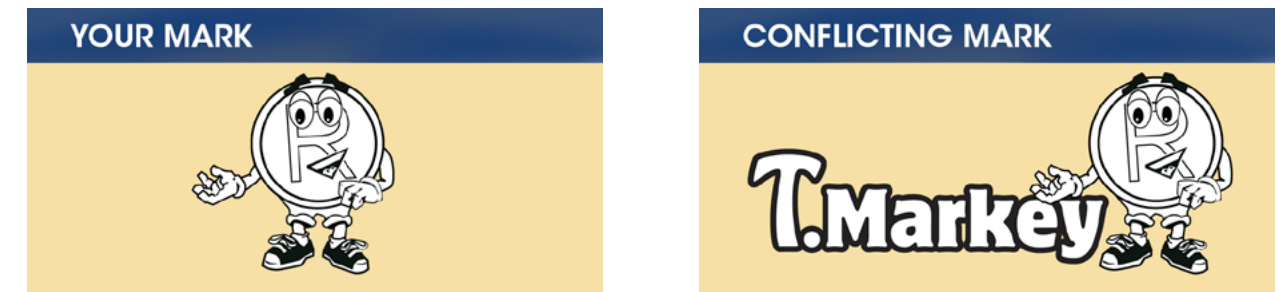
The marks look very similar, even though the one on the right uses a stylized font.

Meaning



The marks are similar because, when the Italian word “LUPO” is translated into English, it means “WOLF.”

Commercial Impression



Because the marks include the same design element, they create a similar overall commercial impression, even though the one on the right also includes words plus the design.



The marks convey a similar general meaning and produce the same mental reaction.

Relatedness of Goods and/or Services

Even if two marks are found to be confusingly similar, a likelihood of confusion will exist only if the goods and/or services upon which or in connection with the marks are used are, in fact, related. Whether the goods and/or services are related is determined by considering the commercial relationship between the goods and/or services identified in the application with those identified in the registration or earlier-filed application. To find relatedness between goods and/or services, the goods and/or services do not have to be identical. It is sufficient that they are related in such a manner that consumers are likely to assume (mistakenly) that they come from a common source. The issue is not whether the actual goods and/or services are likely to be confused but, rather, whether a likelihood of confusion would exist as to the source of the goods and/or services.

The following are examples of related goods and/or services:

Goods

YOUR GOODS	RELATED GOODS
T-shirts and pants	Hats

Services

YOUR SERVICES	RELATED SERVICES
Banking services	Mortgage lending services

Goods and Services

YOUR GOODS	RELATED SERVICES
T-shirts and pants	Online retail store services featuring clothing

Strong v. Weak Marks

In addition to selecting a mark that is not likely to be confused with any pre-existing marks, it is in your best interest to select a mark that is considered “strong” in a legal or trademark sense, i.e., a mark that will most easily allow you to prevent third-party use of your mark. Some marks are easier to protect than others and these are considered “strong” marks.

On the other hand, if a mark is “weak,” it most likely is descriptive and others are already using it to describe their goods or services, making it difficult and costly to try to police and protect. Weak marks should be avoided; they simply do not have the same legal protections of a stronger and more distinctive mark.

Generally, marks fall into one of four categories: fanciful or arbitrary, suggestive, descriptive, or generic. The category your mark falls into will significantly impact both its registrability and your ability to enforce your rights in the mark.

The strongest and most easily protectable types of marks are fanciful marks and arbitrary marks, because they are inherently distinctive. Fanciful marks are invented words with no dictionary or other known meaning. Arbitrary marks are actual words with a known meaning that have no association/relationship with the goods protected. Fanciful and arbitrary marks are registrable and, indeed, are more likely to get registered than are descriptive marks. Moreover, because these types of marks are creative and unusual, it is less likely that others are using them.

Examples of fanciful and arbitrary marks:

Fanciful: BELMICO for “insurance services”

Arbitrary: BANANA for “tires”

Suggestive marks suggest, but do not describe, qualities or a connection to the goods or services. Suggestive marks are registrable and are also considered “strong” marks. If you do not choose a fanciful or arbitrary mark, a suggestive mark is your next best option.

Examples of suggestive marks:

QUICK N’ NEAT for “pie crust”

GLANCE-A-DAY for “calendars”

Descriptive marks are words or designs (e.g., depiction of a television for “television repair services”) that describe the goods and/or services. Such marks are generally considered “weaker” and therefore more difficult to protect than fanciful and arbitrary marks. If the USPTO determines that a mark is “merely descriptive,” then it is not registrable or protectable on the Principal Register unless it acquires distinctiveness-- generally through extensive use in commerce over a five-year period or longer. Descriptive marks are considered “weak” until they have acquired distinctiveness.

Applicants often choose (frequently at the suggestion of marketing professionals) descriptive marks for their goods and/or services, believing that such marks reduce the need for expensive consumer education and advertising because consumers can immediately identify the product or service being offered directly from the mark. This approach, while perhaps logical marketing advice, often leads to marks that cannot be easily protected, i.e., to extremely weak trademark rights. That is, a descriptive mark may not be registrable or protectable against later users of identical or similar marks; therefore, adoption of a descriptive mark may end up costing more money in the long term, either due to higher costs to try to police and enforce such a mark, or because it may be legally necessary to stop using the descriptive mark and select a new mark.

Examples of descriptive marks:

CREAMY for “yogurt”

WORLD’S BEST BAGELS for “bagels”

Generic words are the weakest types of “marks” (and cannot even qualify as “marks” in the legal sense) and are never registrable or enforceable against third parties. Because generic words are the common, everyday name for goods and services and everyone has the right to use such terms to refer to their goods and services, they are not protectable. Be aware that if you adopt a generic term to identify your goods or services, you will not be able to prevent others from using it to identify potentially competing products or services. In addition, even a fanciful mark that is very strong can, over time, become generic if the owner either starts using the mark in a non-trademark manner (see ESCALATOR and ASPIRIN examples, below) or fails to police use of its mark properly and take appropriate action. Without proper policing over time, the original owner of a mark could lose any trademark rights it has in the mark.

Examples of generic marks:

Applied-for trademarks that would be considered generic at the time of filing because they are the name of the good or product offered by the service:

BICYCLE for “bicycles” or “retail bicycle stores”

MILK for “a dairy-based beverage”

Trademarks that eventually became generic because of long-term widespread, non-trademark use:

ESCALATOR for “moving staircases,” ASPIRIN for “pain relief medication”

Other Potential Grounds for the USPTO to Refuse Registration

The USPTO will also refuse registration of a proposed mark for many other reasons, including if the mark is:

- A surname
- Geographically descriptive of the origin of the goods/services
- A foreign term that translates to a descriptive or generic term
- An individual’s name or likeness
- The title of a single book and/or movie
- A matter that is used in a purely ornamental manner.

While some of these refusals are an absolute bar to registration, you may overcome others by providing evidence under certain circumstances. For more information about these and other possible refusals, see [Trademark Manual of Examining Procedure \(TMEP\) Chapter 1200](#)^[13].

Other Factors in Selecting a Mark

You should also consider other important factors when selecting your mark, such as whether the public is likely to be able to remember, pronounce, and spell the selected mark. If you plan to market your goods or services outside the United States under the same mark, consider whether the U.S. mark might have another meaning when translated into a foreign language, particularly if, for example, the translated word could be considered offensive.

TRADEMARK SEARCHING**Why should I do a trademark search?**

Conducting a complete search of your mark before filing an application is very important because the results may identify potential problems, such as a likelihood of confusion with a prior registered mark or a mark in a pending application. A search could save you the expense of applying for a mark in which you will likely not receive a registration because another party may already have stronger rights in that mark. Also, the search results may show whether your mark or a part of your mark appears as generic or descriptive wording in other registrations, and thus is weak and/or difficult to protect.

Where do I search?

The USPTO offers a free search system known as [TESS \(Trademark Electronic Search System\)](#)^[5], available 24-7. The [TESS Help Page](#)^[4] includes information, with some sample search strategies, on how to search the USPTO’s database of registered and prior pending applications to help determine whether any marks therein could prevent registration of your mark due to a likelihood of confusion. The USPTO will not search your mark for you prior to your filing an application. After filing and as part of the examination of your application, the USPTO will conduct a search of your mark and will let you know the results of that search. If the USPTO finds another registered mark or earlier-filed pending mark confusingly similar to yours for related goods/services, it will refuse to register your mark.

Alternatively, you can search the TESS database at a Patent and Trademark Resource Center (PTRC). The USPTO website contains information about [PTRC locations in your state](#)^[15].

Be aware that any searches you conduct on TESS are limited to the USPTO’s database of federal trademark applications and registrations and do not include the marks of other parties who may have trademark rights but no federal registration. These rights, known as “common law” rights, are based solely on use of the mark in commerce within a particular geographic area. Common law rights may be stronger than those based on a registration, if the common law use is earlier than the use that supports the registration. Therefore, it is critical to learn whether superior

common law rights exist, by searching the Internet for websites and articles that reference similar marks that are related to your goods and services. You should also search state trademark databases and business name databases. Because searching is very complex, you should seriously consider hiring a trademark attorney to assist you with a “full” or “comprehensive” trademark search, as discussed below.

HIRING AN ATTORNEY

When you engage in the trademark application process or bring matters before the Trademark Trial and Appeal Board (TTAB), you are involved in a legal proceeding. These proceedings require you to comply with U.S. trademark laws and rules. An attorney who is licensed to practice law in the United States and specializes in trademark law can help you navigate these proceedings.

Must I hire an attorney to handle my trademark matters at the USPTO?

You are required to have a U.S.-licensed attorney represent you in trademark matters at the USPTO **if your domicile is not located in the United States or its territories**. A person’s domicile is the place the person resides and intends to be the person’s principal home. A business’s domicile is the location of its headquarters where the entity’s senior executives or officers ordinarily direct and control the entity’s activities and is usually the center from where other locations are controlled.

Only an attorney who is an active member in good standing of the bar of the highest court of any U.S. state (including the District of Columbia or any Commonwealth or territory of the U.S.) can represent you in a trademark matter at the USPTO. Foreign attorneys who are not licensed to practice law in the U.S. and non-attorneys cannot represent you (including preparing, signing, or filing submissions for you) in a trademark matter at the USPTO.

Once you hire an attorney, the USPTO will only communicate with your attorney about your application, registration, or TTAB proceeding.

What are the benefits of having an attorney represent me?

A U.S.-licensed attorney who specializes in trademark law can provide valuable legal advice about many important issues and help you before, during, and after the trademark application process.

Before you file your application with the USPTO, an attorney may save you from future costly legal problems by conducting a comprehensive search of federal registrations, state registrations, and “common law” unregistered trademarks to determine if your chosen mark is available for use and if it is eligible for federal registration. Comprehensive searches are important because other trademark owners may have protected legal rights in trademarks similar to your chosen mark, even though they are not federally registered. Such unregistered trademarks will not appear in the USPTO’s Trademark Electronic Search System (TESS) database, but could still ultimately prevent you from using your chosen mark even if the USPTO registers your mark.

When you file your application, an attorney can help you navigate the registration process to provide optimal protection of your trademark rights. For example, an attorney can determine the appropriate filing basis for your application, accurately identify and classify your goods and services, select an appropriate specimen that shows your mark as used in commerce, and prepare responses to any refusals to register your mark that a USPTO examining attorney may issue. Although a USPTO examining attorney can provide information about the federal registration process, USPTO employees cannot give you legal advice.

An attorney also can help you understand the scope of your trademarks rights and advise you on the best way to police and enforce those rights. For instance, if other trademark owners challenge your application or registration, or allege that you are infringing on their marks, an attorney can advise you on what to do and defend your case.

How do I find a U.S.-licensed trademark attorney?

To find an attorney who can represent you before the USPTO, consult U.S. telephone listings or the internet. You can also contact the attorney referral service of a U.S. state bar or U.S. local bar association (see the [American Bar Association’s Consumer’s Guide to Legal Help](#)^[16] for more information). Make sure that any attorney you hire has experience prosecuting trademark applications before the USPTO. The USPTO cannot help you select an attorney or recommend one.

Are there free or reduced-fee legal services?

The USPTO’s [Law School Clinic Certification Program](#)^[17] allows law students enrolled in a clinic program to practice intellectual property law before the USPTO under the strict guidance of a law school faculty clinic supervisor.

The American Bar Association posts a list of [Pro Bono IPL Resources in the United States](#)^[18].

The International Trademark Association (INTA) has also established the [INTA trademark pro bono clearinghouse pilot program](#)^[19].

SHOULD I REGISTER MY MARK?

Is federal registration of my mark required?

No. In the United States, parties are not required to register their marks to obtain protectable rights. You can establish “common law” rights in a mark based solely on use of the mark in commerce, without a registration. However, owning a federal trademark registration on the Principal Register provides a number of significant advantages over common law rights alone, including:

- A legal presumption of your ownership of the mark and your exclusive right to use the mark nationwide on or in connection with the goods/services listed in the registration (whereas a

state registration only provides rights within the borders of that one state, and common law rights exist only for the specific area where the mark is used);

- Public notice of your claim of ownership of the mark;
- Listing in the USPTO's online databases;
- The ability to record the U.S. registration with U.S. Customs and Border Protection to prevent importation of infringing foreign goods;
- The right to use the federal registration symbol “®”;
- The ability to bring an action concerning the mark in federal court; and
- The use of the U.S. registration as a basis to obtain registration in foreign countries.

When can I use the trademark symbols TM, SM, and ®?

Each time you use your mark, it is best to use a designation with it. If registered, use an ® after the mark. If not yet registered, use TM for goods or SM for services, to indicate that you have adopted this as a trademark or service mark, respectively, regardless of whether you have filed an application with the USPTO. You may only use the registration symbol with the mark on or in connection with the goods/services listed in the federal trademark registration. However, no specific requirements exist as to the precise use of the “®” symbol as to placement, e.g., whether used in a subscript or superscript manner. Note: Several foreign countries use “®” to indicate that a mark is registered in that country. Use of the symbol by the holder of a foreign registration may be proper.

WHAT THE USPTO DOES AND DOES NOT DO

What does the USPTO do?

The USPTO reviews trademark applications and determines whether the applied-for mark meets the requirements for federal registration. USPTO employees will answer general questions about the application process at no charge. Contact the Trademark Assistance Center (TAC) at TrademarkAssistanceCenter@uspto.gov or 1-800-786-9199. Note: The USPTO cannot provide any sort of information in the nature of “legal advice.” For legal advice, please consider contacting an attorney who specializes in intellectual property.

What does the USPTO not do?

The USPTO does not:

- Decide whether you have the right to use a mark (which differs from the right to register). No law requires that you federally register your mark in order to acquire rights in the mark;
- Enforce your rights in the mark or bring legal action against a potential infringer;

- Conduct trademark searches for the public;
- Comment on the validity of registered marks;
- Assist you with policing your mark against infringers;
- Assist you with recordation of your mark with U.S. Customs and Border Protection;
- Answer questions prior to filing on whether a particular mark or type of mark is eligible for trademark registration; or
- Offer legal advice or opinions about common law trademark rights, state registrations, or trademark infringement claims.

HOW TO FILE A TRADEMARK APPLICATION

How do I file my trademark application and related documents?

As of February 15, 2020, you must file your trademark application and all related documents online using the [Trademark Electronic Application System \(TEAS\)](#)^[6]. **Electronic filing using TEAS is mandatory for all filers**, except in rare circumstances.

TEAS is generally available 24 hours a day, seven days a week. You can receive a filing date for a particular date until midnight Eastern Time on that date.

Find out the current status of TEAS online and about when planned TEAS maintenance outages will occur in the “[USPTO Systems Status and Availability](#)^[20]” page. Read about what to do if you need to file a document with us during an unplanned TEAS outage in “[Filing documents during an outage](#)^[21]”.

Which TEAS initial trademark application filing option should I use?

Our TEAS initial trademark application has two filing options: **TEAS Plus** and **TEAS Standard**. The fees and requirements differ depending on the filing option. You select a filing option based on which requirements you meet.

How do the TEAS Plus and TEAS Standard application filing options differ?

TEAS Plus

This filing option has the lowest filing fee of **\$225 per class** of goods or services, and requires more detailed information at filing. For example, you must include the following information in your application, among other things:

- Your goods and services chosen from the USPTO's [Acceptable Identification of Goods and Services Manual \(ID Manual\)](#)^[3]
- At least one complete filing basis

- Other mark-related information (e.g., a description of the mark and an English translation of any foreign wording in the mark).
- If your application does not meet all of the TEAS Plus filing requirements, you will be required to pay a \$125 per class processing fee. From then on, your application will be handled as a TEAS Standard filing option.

TEAS Standard

This filing option has a filing fee of **\$275 per class** of goods or services, and has fewer initial requirements than TEAS Plus. For example, you may write your own descriptions of your goods and services, instead of only using ID Manual entries.

To find out more information about TEAS Plus and TEAS Standard filing options, see [Trademark Initial Application Forms](#)^[22].

May I file other than by using TEAS?

In most situations, no. Only in very rare situations will filing by other means be permitted, such as on petition in extraordinary circumstances. To find out if you qualify for filing other than by using TEAS, see [Filing documents during an outage](#)^[21].

WHAT A FILING DATE IS AND HOW IT IS DETERMINED

When a submitted TEAS application reaches our server, we assign it a filing date and time using Eastern Time. The filing date is important because it generally gives your application priority in examination over applications with a later filing date. So, if an application filed after yours has a trademark that is likely to cause confusion with your trademark, that application will be put “on hold,” which we call “suspended,” and prevented from moving forward until yours either registers or goes abandoned.

Qualifying for a filing date for your application does not mean your trademark will be registered. You must comply with all application requirements and overcome any refusals that we issue during examination. Your application must also successfully overcome any challenges filed by third parties in any opposition proceedings.

WHAT TO INCLUDE IN YOUR APPLICATION TO GET A FILING DATE

The “owner” listed below refers to the trademark owner.

- Owner (“applicant”) name and entity type
- Owner address
- Owner e-mail address
- Attorney name and postal and e-mail addresses, if applicant has an attorney

- Depiction of trademark (“the drawing”)
- Goods and/or services
- Application filing fee for one class of goods/services

OWNER (APPLICANT) NAME AND ENTITY TYPE

The application must state the trademark owner’s legal name and whether the owner is an individual, sole proprietor, corporation, partnership, LLC, or other entity type. The owner of the trademark is the person or entity that controls the nature and quality of the goods/services provided under the trademark. The owner is not necessarily the name of the person filling out the application.

Must I be a U.S. citizen to apply?

No. However, if you don’t have a domicile in the United States, you are required to have a U.S.-licensed attorney represent you in all trademark matters at the USPTO. See the “Hiring an attorney” section on page 10 for more information.

OWNER DOMICILE AND E-MAIL ADDRESSES

The applicant’s address and e-mail address must be provided in the initial application. This is a minimum filing requirement. We will issue official letters and notices to you about your application by e-mail. We are not responsible if you do not receive USPTO correspondence because of your security, anti-spam software, or any problems within your e-mail system. You can always view all USPTO correspondence related to your application online using the [Trademark Status and Document Retrieval \(TSDR\) system](#)^[7].

Changes of Address

You must keep your mailing and e-mail addresses up to date with us. Make any changes of address to your application using the [TEAS Change of Address or Representation form](#)^[23].

Warning for privacy concerns

Except for payment information, all personal information you submit to the USPTO, including your domicile address, e-mail address, and telephone number, will become part of a public record viewable on our website, as well as other websites that index USPTO data, such as Google®. While providing your telephone number will help us communicate with you and could speed up the processing of your application, it is not required information. If you want to hide your domicile address from public view, you must provide a mailing address that differs from your domicile address that can be publicly viewable, and you must provide this address information in the initial application forms and the “Change of Address or Representation” form only, using the correct data fields in the “Owner Information” section. All other forms **will** make this data public.

Non-USPTO communications about your trademark

Solicitations

Third-party websites and internet search engines may post your USPTO application information online as part of a legitimate service. Companies not associated with the USPTO, however, may mail or e-mail you misleading offers and notices concerning your trademark application that look very official. These companies often use names similar to the USPTO, for example, the terms “United States” or “U.S.” combined with “trademark.” The notices often mimic the look of official government documents by emphasizing official government data, such as the USPTO application serial number, the international class(es), and filing dates. Many refer to other government agencies and include legal-looking references. Most require “fees” to be paid.

You do not need to respond to these solicitations, even if they indicate there is a looming deadline at the USPTO. You may separately confirm a USPTO deadline directly on our website (see section “How do I check the status of my application?”). Keep in mind that all official correspondence from the USPTO will only be from the “United States Patent and Trademark Office” located in Alexandria, VA, and from the e-mail domain “@uspto.gov.” Read trademark-related communications carefully before determining whether you need to respond.

Letters claiming trademark infringement

If another trademark owner believes you don’t have the right to use your trademark, you could receive a “cease-and-desist” letter that:

- Demands you immediately stop using your trademark because of what the letter may allege is unlawful or infringing use
- Says you could face possible legal action if you don’t stop using your trademark.

This is a serious matter. We strongly encourage you to hire an attorney in this situation, if you don’t already have one representing you. See the “Hiring an attorney” section on page 10 for more information.

ATTORNEY NAME AND POSTAL AND E-MAIL ADDRESSES

If you have an attorney handling the filing of your application at the USPTO, the attorney’s name, postal and e-mail addresses must be provided.

You are only required to have a U.S.-licensed attorney represent you in your trademark matter at the USPTO if your domicile (the place a person resides and intends to be the person’s principal home or the principal place of business; i.e., headquarters, where a juristic entity applicant’s senior executives or officers ordinarily direct and control the entity’s activities) is not located in the United States. See the “Hiring an attorney” section on page 10 for more information.

DEPICTION OF THE MARK (“THE DRAWING”)

Every application must include a clear image of one mark (“the drawing”). The USPTO uses the drawing to upload the mark into the USPTO search database and to print the mark in the Official Gazette (OG) and on the registration certificate. If you have variations on the mark that you wish to register, each requires its own separate application and fee.

There are two types of drawings: “standard character” and “special form.”

What is a “standard character” drawing?

A standard character drawing is commonly submitted when the mark you wish to register consists solely of words, letters, or numbers. A standard character mark protects the wording itself, without limiting the mark to a specific font, style, size, or color and therefore gives you broader protection than a special form drawing.

A standard character drawing must have the following characteristics:

- No design element;
- No stylization of lettering and/or numbers;
- Any letters and words in Latin characters;
- Any numbers in Roman or Arabic numerals;
- Only common punctuation or diacritical marks.

NOTE: The USPTO has created a [standard character set](#)^[24] that lists letters, numerals, punctuation marks, and diacritical marks that may be used in a standard character drawing.

How do I file a standard character drawing?

TEAS generates a standard character drawing for you, based on the information you enter on the form under “enter the mark here.”

What is a “special form” drawing?

If your mark includes a design or logo, alone or with wording, or if the particular style of lettering or particular color(s) is important, you must select the “special form” drawing format. If you are seeking registration of a word(s) combined with a design element, the drawing must depict both the word(s) and the design element combined as one image.

How do I file a “special form” drawing?

You must upload an image of your mark into the TEAS form. The mark image must be in .jpg format and should have minimal white space surrounding the design of the mark. Mark images should not include the trademark, service mark or registration symbols (TM, SM, ®). Unless a

color image is being submitted for a mark wherein color is claimed as a feature of the mark, the mark image should be black and white.

Should I submit a black-and-white drawing or a color drawing?

Generally, you may submit a black-and-white drawing even if you use your mark in color, because a black-and-white drawing covers use of your mark in any color. However, if it is important that your customers associate specific colors in your mark with your product, you may wish to limit your mark and claim those colors as part of your mark. If you do submit a color claim, then you must also submit a color drawing of your mark that matches the colors you are claiming.

What are the requirements if I submit a color drawing?

You must submit the following: (1) a “color claim” naming the color(s) and stating that the color(s) is a feature of the mark, and (2) a separate statement describing the mark and stating where the color(s) appears in the mark.

GOODS/SERVICES

What is the difference between goods and services?

Goods are products, such as bicycles or candles. Services are activities performed for the benefit of someone other than you or your company, such as bicycle repair services or catering.

The difference between goods and services can sometimes be confusing. Are your customers paying you to receive a product or to receive a specific activity? If your customers are paying you for a product, such as a bicycle, then you have a good. However, if your customers are paying you to perform an activity, such as repairing a bicycle, then you have a service.

You may list both goods and services in an application.

What goods and services should I list?

You must list the specific goods and/or services you are using or will use with the trademark you want to register. If your application is based on “use in commerce,” you must be using the trademark in commerce for all the goods and/or services listed in your application. If your application is based on a “bona fide intent to use the mark,” you must have a good faith or bona fide intent to use the trademark on all the goods and/or services listed.

How do I accurately list my goods and services?

Use our searchable [Acceptable Identification of Goods and Services Manual \(ID Manual\)](#)^[3] to find acceptable wording to describe your goods and/or services in the application. All goods and services in the ID Manual are assigned numbered categories called “international classes.” There are 45 international classes: classes 1-34 are for goods and classes 35-45 are for services. Review our [list of the international classes](#)^[25] to learn what types of goods and services fall under

each class. This list is intended to help you correctly identify how to describe your goods and/or services.

Do not use the international class headings to describe your goods and/or services in the application. These headings are too broad to identify specific goods and services, and so are not acceptable for that purpose.

Also, remember that although we use an international classification system, we provide federal registration; your trademark rights only extend to the 50 U.S. states and territories.

Why is it important to accurately describe my goods and/or services?

Failing to accurately identify your goods and/or services could prevent registration of your trademark because you’ll be required to submit a sample of how you are using your mark with the goods/services you list on the application. If you are unable to show use for those goods and/or services, your application may be refused. In such case, you would not be refunded any filing fees.

If the ID Manual does not contain an accurate listing for your goods and/or services, don’t select an entry that seems close. Instead, draft your own identification, describing your goods and/or services using clear, concise terms that the general public would easily understand. Don’t use industry-specific wording. If you list vague terms that do not identify recognizable goods or services, such as “miscellaneous services” or “company name,” your application will be considered void, it will not be examined or registered, and you will have to file a new application.

If you apply using the TEAS Plus form, you **must** choose your goods and/or services from the ID Manual. So, check the ID Manual prior to filling out the application to make sure your goods and/or services are listed. If you can’t find an ID Manual entry appropriate for your goods and/or services, don’t use the TEAS Plus form; use the TEAS Standard form instead.

May I change my goods and services after I file my application?

In some ways, yes. You may delete goods and/or services from the application. And you may clarify or limit goods and/or services. But you may not expand or broaden goods and/or services. For example, if you initially listed “shirts” as your goods in the application, you could later limit these to specific types of shirts, such as “t-shirts and polo shirts.” You may not later change “shirts” to “pants.” Likewise, if you initially filed for “jewelry,” you may limit the goods to specific types of jewelry, such as “jewelry, namely, earrings.” You may not change “jewelry” to “jewelry boxes” or to a service, such as “jewelry stores.”

APPLICATION FILING FEE

Application filing fees are based on the type of TEAS initial application filing option used (TEAS Plus or TEAS Standard) and the number of international classes of goods or services in the application. Each class of goods and/or services in your application requires its own filing fee. You

may have multiple international classes in your application; you may have only one trademark per application.

There are additional fees depending on the filing basis of your application: intent-to-use applications have more required submissions and fees after initial submission. Check current fee amounts to know what an application may cost at the [Trademark fee information page](#)^[26].

If you file a TEAS Plus application and do not satisfy all the application requirements for that filing option, you will be required to submit an additional processing fee per class of goods and/or services. From that point onward, your application will be treated as a TEAS Standard application, with associated TEAS Standard fees.

The TEAS forms accept payment by credit card and electronic funds transfer or through an existing USPTO deposit account.

Filing fees are generally not refundable. These fees cover our processing of your application and related submissions. If your application meets the initial filing requirements but is later refused on legal grounds during the examination process, the USPTO will normally not refund any fees.

OTHER INFORMATION TO INCLUDE IN THE APPLICATION

There are other application requirements in addition to the filing date requirements, such as a basis for filing your application, and a specimen for use-based applications, among other things. The proper person must sign the application.

BASIS FOR FILING

The application must specify your “basis” for filing. Most U.S. applicants base their application on either their current use of the mark in commerce or their intent to use the mark in commerce in the future.

What is the difference between a “use-in-commerce” application and an “intent-to-use” application?

Under either basis, prior to registration you must demonstrate that you have used the mark in commerce in connection with all the goods/services listed in your application by submitting an acceptable specimen. The basic difference between these two filing bases is whether you have started to use the mark on all the goods/services. If you have already used your mark in commerce in connection with all the goods/services listed in your application, you may file under the “use-in-commerce” basis. If you have not yet used your mark, but intend to use it in the future, you must file under the “intent-to-use” basis. An “intent-to-use” basis requires filing an additional form and fee that are unnecessary if you file under “use in commerce.” For information on the additional form, see the “HOW TO ESTABLISH USE OF THE MARK FOR AN “INTENT-TO-USE” APPLICATION” section on page 28. It is also possible to file an

application wherein some of the goods/services are in use and others are intent to use, but the application must clearly identify this.

What is a “use-in-commerce” basis?

For applications filed under the use-in-commerce basis, you must be using the mark in the sale or transport of goods or the rendering of services in “interstate” commerce between more than one state or U.S. territory, or in commerce between the U.S. and another country. For goods, the mark must appear on the goods (e.g., tags or labels), the container for the goods, or displays associated with the goods. For services, the mark must be used in the sale or advertising of the services.

How do I establish my “use-in-commerce” basis?

- Provide the date of first use of the mark anywhere and the date of first use of the mark in commerce.
- Submit a specimen (example) showing how you use the mark in commerce. See the “SPECIMEN FOR USE-BASED APPLICATIONS” section on page 22.

What is the difference between the “date of first use anywhere” and the “date of first use in commerce”?

The date of first use anywhere is the date on which the goods were first sold or transported or the services were first provided under the mark even if that use was only local. The date of first use in commerce is the date on which the goods were first sold or transported or the services were first provided under the mark between more than one state or U.S. territory, or in commerce between the U.S. and another country. The date of first use anywhere must be the same as or earlier than the date of first use in commerce.

What is an “intent-to-use” basis?

If you have not yet used the mark but plan to do so in the future, you may file based on a good faith or bona fide intent to use the mark in commerce. A bona fide intent to use the mark is more than an idea and less than market ready. For example, having a business plan, creating sample products, or performing other initial business activities may reflect a bona fide intent to use the mark.

Is there any other possible filing basis?

Yes. Based on international agreements/treaties, an owner may file an application in the U.S. based on a foreign application/registration issued by another country (a “Section 44” application). Also, a foreign owner may file an international application in its home country and request an extension of protection to the U.S. (a “Section 66(a)” application). See Trademark Manual of Examining Procedure (TMEP) Chapters [1000](#)^[27] and [1900](#)^[28] for more information.

How do I protect my mark outside the United States?

A USPTO registration is effective only in the U.S., even though the goods/services are assigned an “international” classification number. If after filing a U.S. application you want to protect your mark outside the U.S., you may file an international application or file directly in that country. For more information about protecting your mark under the Madrid Protocol, see the [Madrid Protocol](#)^[29] page, under laws and regulations at the USPTO Trademarks site.

SPECIMEN FOR USE-BASED APPLICATIONS

What is a “specimen” of use and how does it differ from the “drawing”?

A specimen is a real-life sample of how you are actually using your trademark in commerce with your goods or services. A specimen is not the same as a drawing. A drawing shows only the trademark you want to register, whereas the specimen shows your trademark as purchasers would encounter it in the marketplace (e.g., a specimen shows the mark on the entire product and/or packaging or shows a web page featuring the mark to advertise services).

What is a proper specimen for goods (products)?

A specimen for goods could show the trademark on or attached to the goods themselves or on packaging for the goods. For example, your specimen could be a photograph of the goods with a tag or label attached or a photograph of packaging showing your trademark. A display specimen would show the mark near a picture, photograph, or textual description of the goods and include information necessary to purchase the goods.

The specimen may not be a digitally-altered image or photograph, computer illustration, artist’s rendering, or similar mock-up of these items. It must be a photograph of the actual product or packaging that is being sold to customers.

A specimen that shows your trademark used in a purely ornamental or decorative manner is likely not an acceptable specimen. For example, a slogan or logo emblazoned across the front of a t-shirt, hat, or tote bag would not be acceptable because consumers would likely perceive the slogan or logo as merely an ornamental or decorative element rather than as a trademark indicating the source of the shirts, hat, or tote bag. However, consumers may perceive a small word or design on such goods, like a small discrete animal logo on a shirt front pocket, as a trademark. A photograph of this use would likely be an acceptable specimen.



Acceptable Specimen



Not Acceptable Specimen

Is my web page a proper specimen for goods?

In some cases, yes. If your web page shows a photo of your goods or its packaging with your trademark on either the goods or its packaging, then your web page is generally acceptable as a specimen.

Your web page can also be a proper specimen if it shows your trademark directly associated with your goods and is of a point-of-sale nature. In this case, the specimen would need to show:

- The trademark displayed near a picture or textual description of the goods (trademark directly associated with the goods)
- Purchasing information to allow customers to buy the goods from the site (point-of-sale nature)

For all web page specimens, you must provide an actual screenshot of the web page, the URL, and the date the web page was accessed and/or printed. Merely providing a web page address where the goods may be purchased is not an acceptable specimen.

What is not a proper specimen for goods?

The following are generally not acceptable as specimens for goods:

- Advertisements
- Invoices
- Publicity announcements
- Order forms
- Leaflets
- Brochures
- Press releases
- Letterhead
- Business cards
- Web page addresses

What is a proper specimen for use of a mark with services?

A specimen for services must show the trademark used in providing or advertising the services. For example, your specimen could be:

- A digital photograph of a business sign in front of the store where the services are being provided
- A brochure about the services
- An advertisement for the services
- A business card that references the services
- Stationery showing the mark and referencing the services.

The specimen must show a direct association between the trademark and the services.

Is my web page a proper specimen for services?

Yes, if it shows the trademark used to advertise or sell the services in the application. Generally, the specimen must show:

- A reference to the services
- A direct association between the trademark and the services
- Use of the trademark as the source of the services.

A web page that doesn't explicitly reference the services may still be acceptable if it shows the trademark used in the rendering or providing of the services.

You must provide an actual screenshot of the web page, the URL, and the date the web page was accessed and/or printed. Merely providing a web page address is not an acceptable specimen.

The web page specimen shown here is acceptable for online retail store services because the MACYS.COM trademark is prominently displayed in the upper-left corner of the web page.

- The goods being sold are shown in the center; menus on the right side of the web page show various categories of goods sold in the online store.
- The MACYS.COM trademark is directly associated with retail store services based on the trademark's proximity to the goods being sold and the prominent wording "express checkout sign-in" in the left-hand column.

The required URL and date the web page was accessed and/or printed are shown on the specimen.



What is not a proper specimen for services?

Printer's proofs of advertisements or news articles about your services are not acceptable because they do not show your use of the trademark. In addition, the specimen should not be a:

- Digitally altered image or photograph
- Computer illustration

- Artist's rendering
- Mock-up of an advertisement or web page
- Web page address

When do I file the specimen?

If your application is based on use in commerce, you must submit one specimen for each class of goods and/or services with your application.

If your application is based on intent to use, you must submit one specimen for each class of goods and/or services when you file an allegation of use. The allegation of use may be filed either before publication (called an Amendment to Allege Use) or after publication (called a Statement of Use). For more information on publication, see the "PUBLICATION FOR OPPOSITION" section on page 27. For more on the Allegation of Use, see the "HOW TO ESTABLISH USE OF THE MARK FOR AN "INTENT-TO-USE" APPLICATION" section on page 28.

How do I file the specimen?

You must attach an image file of your specimen in .jpg or .pdf format. To show the context in which the mark is used, you should include as much as possible of the label, advertisement, or web page in the image.

SIGNATURE

Who may sign the application?

If you own the mark and are applying in your individual capacity and not as a business entity, you may sign the application. If a business entity owns the mark, then the person who may sign the application on behalf of that business is (1) someone with firsthand knowledge of the application contents and authority to act for the owner or (2) someone with legal authority to bind the owner such as a general partner or a corporate officer. If the applicant is represented by an attorney, the attorney may sign the application on behalf of the applicant.

Please note different requirements exist for who may sign other types of documents that applicants must file with the USPTO regarding their application. All documents, including the application, are legal documents; accordingly, the proper person must sign each document for the USPTO to accept it.

How do I sign an electronic application?

In an electronic application, you enter an electronic signature on the form by typing your signature, which consists of any alpha and/or numeric combination of your own choosing, between two forward slashes. Examples of acceptable signatures include /john doe/, /jd/, or /d123/. It is not permissible for one person to enter another person's signature.

WHAT HAPPENS AFTER FILING AND WHAT TO DO

After I file my application, will I receive any notices or communications from the USPTO?

Yes. Starting with a filing receipt for your application, we will e-mail you communications about your application. We issue all trademark application-related notices and communications by e-mail from the domain “@uspto.gov.”

You and your attorney, if you have one, must each provide a current e-mail address with your application, regardless of whether it is TEAS Plus or TEAS Standard, and keep that e-mail address up-to-date to ensure all USPTO communications related to your application are received. If you have an attorney, all USPTO communications will go to your attorney. Otherwise, they will go to you.

What if my e-mail address changes?

Immediately notify us by filing a TEAS Change of Address or Representation form for your application. Keeping a current e-mail address ensures you receive important communications from us about your application.

What must I do after I file the application?

Diligently keep track of status changes to your application and whether we have sent application-related e-mail communications or notices that you need to respond to. This means you must:

Check the status of your application at least every six months. The assigned examining attorney will review your application at about three months after the filing date. The overall registration process could take up to a year, or longer, depending on several factors, such as the filing basis of the application and how complete your application is at the time of filing. For a general process timeline for an application filed under the intent-to-use basis, see page 30. [See process timelines for applications filed under different filing bases](#)^[30] online.

Respond to any issued office action or notice within the appropriate time frames—generally within six months of the issue date. Promptly contact us if you believe something is incorrect in your application record.

How do I check the status of my application?

Check the status of any pending application using the [TSDR system](#)^[7]. You must have your application serial number (a serial number is an eight-digit number that usually begins with 79, 85, 86, 87, or 88). Enter your application serial number and click on the “Status” tab. You may also contact the Trademark Assistance Center (TAC) at 1-800-786- 9199 (select option one) or TrademarkAssistanceCenter@uspto.gov to request a status check.

What if I don’t receive USPTO e-mails because they get blocked as spam?

You must meet all your filing deadlines in the registration process regardless. If you find through your periodic status check that you didn’t receive a letter or notice we issued, then access the letter or notice using [TSDR](#)^[7] to see if you need to respond. Enter your application serial number and click on the “Documents” tab to see a list of all the documents and submissions for your application. Click on each separate listing to see the contents of a specific document.

LEGAL AND PROCEDURAL REVIEW OF APPLICATION

Approximately 3 months from the date your application is filed, the application is assigned to an examining attorney to determine whether federal law permits registration. The examining attorney will examine the written application, the drawing, and any specimen, to ensure that they satisfy all of the federal legal requirements. Federal registration of trademarks is governed by the Trademark Act of 1946, 15 U.S.C. §1051 et seq., and the Trademark Rules of Practice, 37 C.F.R. Part 2.

The examining attorney may issue a letter (Office action) explaining any reasons for refusing registration or other requirements. If you receive an Office action, you must submit a response within 6 months of the issue date of the Office action. Your filing fee will not be refunded if the application is refused registration.

PUBLICATION FOR OPPOSITION

If no refusals or additional requirements are identified or if all identified issues have been resolved, the examining attorney will approve the mark for publication in the [Official Gazette \(OG\)](#)^[31], a weekly online publication. The USPTO will send you a Notice of Publication stating the publication date.

If you have authorized e-mail communication, the USPTO will e-mail you a “Notification of ‘Notice of Publication’” approximately 3 weeks before the future publication date in the OG. On the actual publication date, you will receive a second e-mail, namely, “[Official Gazette Publication Confirmation](#)” with a link to the OG^[31]. If you have not authorized e-mail communication with the USPTO, the USPTO will mail you approximately 3 weeks before publication a paper “Notice of Publication” stating the publication date.

WHAT HAPPENS AFTER PUBLICATION?

After publication in the OG, there is a 30-day period in which the public may object to the registration of the mark by filing an opposition. An opposition is similar to a court proceeding, but is held before the Trademark Trial and Appeal Board, a USPTO administrative tribunal. A third party who is considering filing an opposition may first file a request for an extension of time to file the opposition, which could delay further action on your application.

The next step after publication depends on your basis for filing the application:

REGISTRATION CERTIFICATE ISSUES FOR “USE-IN-COMMERCE” APPLICATION

If no opposition or extension of time to oppose is filed or if you successfully overcome an opposition, you do not need to take any action for the application to enter the next stage of the process. Absent any opposition-related filings, the USPTO generally will issue a registration certificate about 11 weeks after publication, if the application is based upon the actual use of the mark in commerce (Section 1(a)) or on a foreign or international registration (Section 44(e) or Section 66(a)).

NOTICE OF ALLOWANCE (NOA) ISSUES FOR “INTENT-TO-USE” APPLICATION

If no opposition or extension of time to oppose is filed or you successfully overcome an opposition, you do not need to take any action for the application to enter the next stage of the process. Absent any opposition-related filings, the USPTO generally will issue a NOA about 8 weeks after publication.

A NOA indicates that your mark has been allowed, but does not mean that it has registered. As the next step to registration, within 6 months of the issue date of the NOA you must:

- Submit a “Statement of Use” if you filed based on intent to use (Section 1(b)) and are now using the mark in commerce;
- Begin using the mark in commerce and then submit a “Statement of Use;” or
- Submit a six-month “Request for an Extension of Time to File a Statement of Use” if you need additional time to begin using the mark in commerce.

Forms for filing both the Statement of Use and Extension of Time are at the [TEAS Forms](#)^[6] page.

HOW TO ESTABLISH USE OF THE MARK FOR AN “INTENT-TO-USE” APPLICATION

Notice of Allowance (NOA) Has Already Issued

If a NOA has already issued, you establish use by filing a Statement of Use (SOU) form that contains a sworn statement that you are now using the mark in commerce on all the goods/services. If you wish to file an SOU before the mark is in use in commerce on all listed goods/services, you must delete or divide out the goods/services for which the mark is not in use. For more on division of an application, please see [TMEP Sections 1110 et seq](#)^[32].

The SOU must also include:

- A filing fee per class of goods or services;
- The date of first use of the mark anywhere and the date of first use of the mark in commerce;

- One specimen (or example) showing how you use the mark in commerce for each class of goods/services.

Once the USPTO issues the NOA, you have 6 months to file the SOU. The 6-month period runs from the issue date shown on the NOA, not the date you receive it. If you have not used the mark in commerce, you must file a Request for an Extension of Time to File a Statement of Use (Extension Request) before the end of the 6-month period, or the application will be declared abandoned, meaning that the application process has ended and your mark will not register. You may request 5 additional extensions for up to a total of 36 months from the NOA issue date, with a statement of your ongoing efforts to make use of the mark in commerce. A filing fee per class of goods or services must accompany each Extension Request. The form for filing the Extension Request is at [. The date of the grant or denial of an Extension Request does not affect the deadline for filing the SOU or next Extension Request. The deadline is always calculated from the issue date of the NOA.](#)

For current fees, see the [Trademark Fee Information page](#)^[26] or contact the Trademark Assistance Center (TrademarkAssistanceCenter@uspto.gov or 1-800-786-9199).

Notice of Allowance (NOA) Has Not Yet Issued

If the NOA has not yet issued and the application has not yet been approved for publication, you may file an Amendment to Allege Use, which includes the same information as the SOU (see above). You may not file the Amendment to Allege Use during the “blackout period” after approval of the mark for publication and before issuance of the NOA. In that situation, you must wait until after the blackout period to file your SOU.

MAINTAINING A FEDERAL TRADEMARK REGISTRATION

To maintain your trademark registration, you must file your first maintenance document between the 5th and 6th year after the registration date and other maintenance documents thereafter. Your registration certificate contains important information on maintaining your federal registration. If the documents are not timely filed, your registration will be cancelled and cannot be revived or reinstated, making the filing of a brand new application to begin the overall process again necessary. Forms for filing the maintenance documents are at the [TEAS forms](#)^[6] page.

Throughout the life of the registration, you must police and enforce your rights. While the USPTO will prevent another pending application for a similar mark used on related goods or in connection with related services from proceeding to registration based on a finding of likelihood of confusion, the USPTO will not engage in any separate policing or enforcement activities.

Rights in a federally registered trademark can last indefinitely if you continue to use the mark and file all necessary maintenance documents with the required fee(s) at the appropriate times, as identified below. The necessary documents for maintaining a trademark registration are:

- Declaration of Continued Use or Excusable Nonuse under Section 8 (§8 declaration); and

- Combined Declaration of Continued Use and Application for Renewal under Sections 8 and 9 (combined §§8 and 9).

A §8 declaration is due before the end of the 6-year period after the registration date or within the 6-month grace period thereafter. Failure to file this declaration will result in the cancellation of the registration.

A combined §§8 and 9 must be filed before the end of every 10-year period after the registration date or within the 6-month grace period thereafter. Failure to make these required filings will result in cancellation and/or expiration of the registration.

For further information, including information regarding the special requirements that apply to Madrid Protocol registrations, use the Popular Link “Maintain or Renew Registrations” on the left side of the [Trademarks Home page](#)^[1] or contact the Trademark Assistance Center (TAC) (TrademarkAssistanceCenter@uspto.gov or 1-800-786-9199).

FEES FOR FILING TRADEMARK-RELATED DOCUMENTS

For current fees, see the [Trademark Fee Information page](#)^[26] or contact the Trademark Assistance Center (TrademarkAssistanceCenter@uspto.gov or 1-800-786-9199).

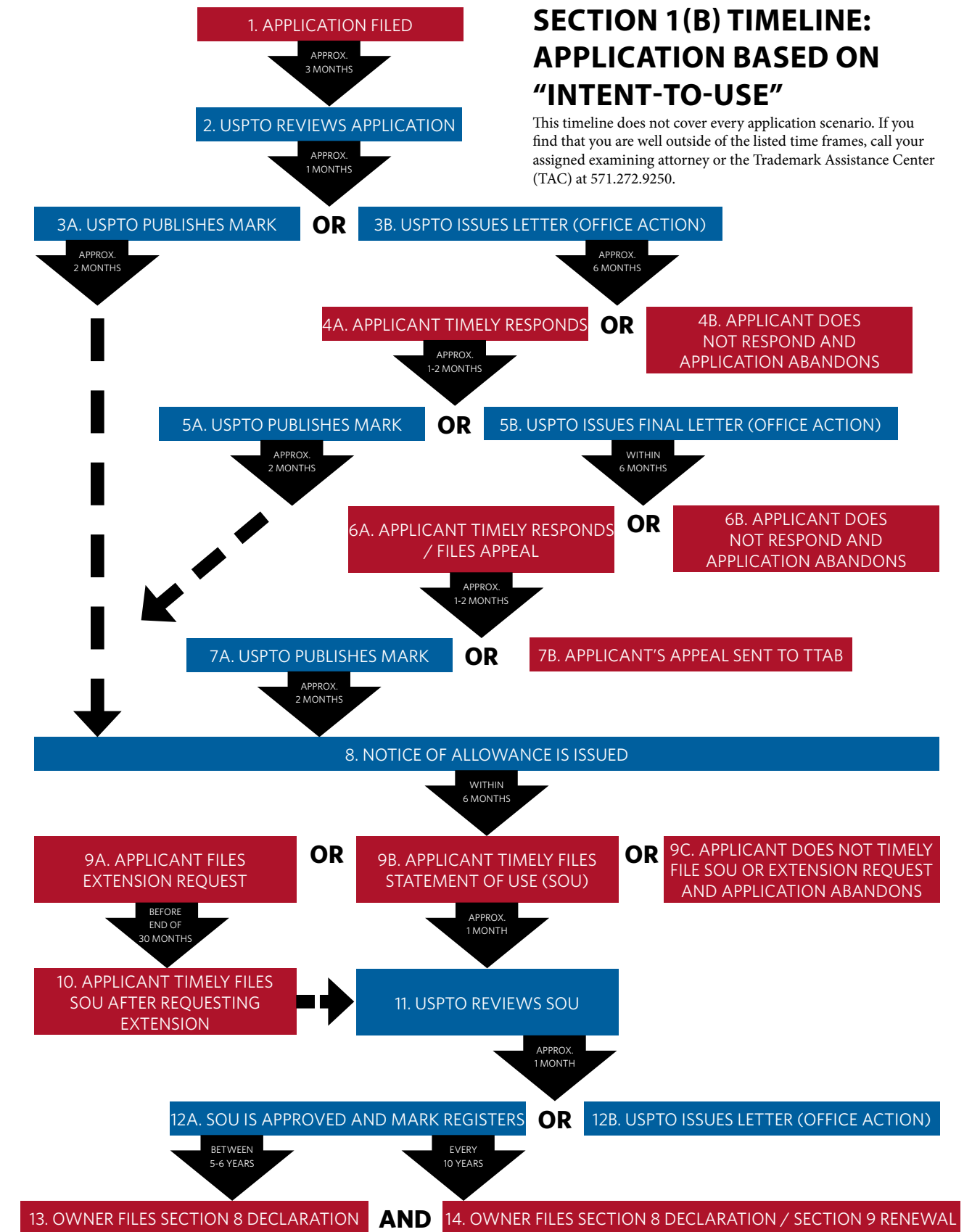
Fees almost always are based on the total number of International Classes that the USPTO assigns to your goods/services. For a listing of the International Classes, see the “[International Schedule of Classes of Goods and Services](#)^[33]”.

FOR MORE INFORMATION

- USPTO website, [Trademark Basics](#)^[34]. For instructional videos, application processing timelines, frequently asked questions (FAQs), and other useful information.
- Trademark Assistance Center (TAC) TrademarkAssistanceCenter@uspto.gov or 1-800-786-9199. For general trademark information and printed application forms
- Patent and Trademark Resource Centers (PTRCs) are a nationwide network of public, state, and academic libraries that disseminate patent and trademark information and support the diverse intellectual property needs of the public. The PTRCs have trained specialists who may answer specific questions regarding the trademark process, but they do not provide legal advice. More information on PTRCs, including a [list of the PTRC\(s\) in your state](#)^[15], is available at the [PTRC section](#)^[35] of our website.

SECTION 1(B) TIMELINE: APPLICATION BASED ON “INTENT-TO-USE”

This timeline does not cover every application scenario. If you find that you are well outside of the listed time frames, call your assigned examining attorney or the Trademark Assistance Center (TAC) at 571.272.9250.



Step 1. Application filed: The filed application is assigned a serial number. This number should always be referenced when communicating with the USPTO. The applicant can check the status of any application throughout the entire process by entering the application serial number at <http://tsdr.uspto.gov/> or by calling the trademark status line at 571-272-5400. Approximately 3 months go to step 1.

Step 2. USPTO reviews application: If the minimum filing requirements are met, the application is assigned to an examining attorney. The examining attorney conducts a review of the application to determine whether federal law permits registration. Filing fee(s) will not be refunded, even if the application is later refused registration on legal grounds. Approximately 1 month go to step 3a or step 3b.

Step 3a. USPTO publishes mark: If no refusals or additional requirements are identified, the examining attorney approves the mark for publication in the *Official Gazette (OG)*. The *OG*, a weekly online publication, gives notice to the public that the USPTO plans to issue a registration. Approximately 1 month after approval, the mark will publish in the *OG* for a 30-day opposition period. Any party who believes it would be harmed by the registration may file an objection (opposition) within that 30-day period with the Trademark Trial and Appeal Board. No further action is taken until the opposition is resolved. Approximately 2 months go to step 8.

Step 3b. USPTO issues letter (Office action): If refusals or requirements must still be satisfied, the examining attorney assigned to the application issues a letter (Office action) stating the refusals/requirements. Within 6 months of the issuance date of the Office action, the applicant must submit a response that addresses each refusal and requirement. Within 6 months go to step 4a or step 4b.

Step 4a. Applicant timely responds: In order to avoid abandonment of the application, the applicant must submit a timely response addressing each refusal and/or requirement stated in the Office action. The examining attorney will review the submitted response to determine if all refusals and/or requirements have been satisfied. Approximately 1 to 2 months go to step 5a or step 5b.

Step 4b. Applicant does not respond and application abandons: If the applicant does not respond within 6 months from the date the Office action was issued, the application is abandoned. The term "abandoned" means that the application process has ended and the trademark will not register. Filing fees are NOT refunded when applications abandon. Abandoned applications are "dead," since they are no longer pending or under consideration for approval. To continue the application process, the applicant must file a petition to revive the application within 2 months of the abandonment date. If more than 2 months after the abandonment date, the petition will be denied as untimely and the applicant must file a new application with the appropriate fee(s).

Step 5a. USPTO publishes mark: If the applicant's response overcomes the refusals and/or satisfies all requirements, the examining attorney approves the mark for publication in the *Official Gazette (OG)*. The *OG*, a weekly online publication, gives notice to the public that the USPTO plans to issue a registration. Approximately 1 month after approval, the mark will publish in the *OG* for a 30-day opposition period. Any party who believes it would be harmed by the registration may file an objection (opposition) within that 30-day period with the Trademark Trial and Appeal Board. No further action is taken until the opposition is resolved. Approximately 2 months go to step 8.

Step 5b. USPTO issues final letter (Office action): If the applicant's response fails to overcome the refusals and/or satisfy the outstanding requirements, the examining attorney will issue a "Final" refusal letter (Office action). The Office action makes "final" any remaining refusals or requirements. An applicant may respond to a final office action by a) overcoming the refusals and complying with the requirements or b) appealing to the Trademark Trial and Appeal Board. Within 6 months go to step 6a or step 6b.

Step 6a. Applicant timely responds and/or files appeal: To avoid abandonment of the application, the applicant must submit a timely response addressing each refusal and/or requirement stated in the "Final" refusal letter (Office action). Alternatively, or in addition to the response, the applicant may also submit a Notice of Appeal to the Trademark Trial and Appeal Board (TTAB). The examining attorney will review the submitted response to determine if all refusals and/or requirements have been satisfied. If the applicant's response fails to overcome the refusals and/or satisfy the outstanding requirements, the application will be abandoned unless the applicant has filed a Notice of Appeal, in which case the application is forwarded to the TTAB. The term "abandoned" means that the application process has ended and the trademark will not register. Filing fees are not refunded when applications abandon. Abandoned applications are "dead," since they are no longer pending or under consideration for approval. Approximately 1 or 2 months go to step 7a or step 7b.

Step 6b. Applicant does not respond and application abandons: If the applicant does not respond within 6 months from the date the Office action was issued and the applicant has not filed a Notice of Appeal to the Trademark Trial and Appeal Board, the application is abandoned. The term "abandoned" means that the application process has ended and the trademark will not register. Filing fees are not refunded when applications abandon. Abandoned applications are "dead," since they are no longer pending or under consideration for approval. To continue the application process, the applicant must file a petition to revive the application within 2 months of the abandonment date, with the appropriate fee. If more than 2 months after the abandonment date, the petition will be denied as untimely and the applicant must file a new application with the appropriate fee(s).

Step 7a. USPTO publishes mark: If the applicant's response overcomes the refusals and/or satisfies all requirements of the "Final" refusal letter (Office action), the examining attorney approves the mark for publication in the *Official Gazette (OG)*. The *OG*, a weekly online publication, gives notice to the public that the USPTO plans to issue a registration. Approximately 1 month after approval, the mark will publish in the *OG* for a 30-day opposition period. Any party who believes it would be harmed by the registration may file an objection (opposition) within that 30-day period with the Trademark Trial and Appeal Board. No further action is taken until the opposition is resolved. Approximately 2 months go to step 8.

Step 7b. Applicant's appeal sent to TTAB: If the applicant's response does not overcome the refusals and/or satisfy all of the requirements and the applicant has filed a Notice of Appeal with the Trademark Trial and Appeal Board (TTAB), the appeal will be forwarded to the TTAB. Information about the TTAB can be found at www.uspto.gov.

Step 8. Notice of Allowance (NOA) is issued: A NOA is issued to the applicant within 2 months after the mark is published in the *Official Gazette (OG)*. The NOA is not a registration, but indicates that the mark will be allowed to register after an acceptable Statement of Use (SOU) is filed. The deadline for filing an SOU or request for extension of time (extension request) to file an SOU is calculated from the date the NOA issued. If the applicant does not file an SOU or extension request within 6 months of the date the NOA issued, the application will abandon. Within 6 months go to step 9a or step 9b or step 9c.

Step 9a. Applicant files extension request: If the applicant is not using the mark in commerce on all of the goods/services listed in the NOA, the applicant must file an extension request and the required fee(s) to avoid abandonment. Because extension requests are granted in 6 month increments, applicant must continue to file extension requests every 6 months. A total of 5 extension requests may be filed. The first extension request must be filed within 6 months of the issuance date of the NOA and subsequent requests before the expiration of a previously granted extension. Before the end of 30 months go to step 10.

Step 9b. Applicant timely files Statement of Use (SOU): If the applicant is using the mark in commerce on all of the goods/services listed in the NOA, the applicant must submit an SOU and the required fee(s) within 6 months from the date the NOA issued to avoid abandonment. Applicant cannot withdraw the SOU; however, the applicant may file one extension request with the SOU to provide more time to overcome deficiencies in the SOU. No further extension requests may be filed. Approximately 1 month go to step 11.

Step 9c. Applicant does not timely file SOU or extension request: application abandons: If the applicant does not file an SOU or extension request within 6 months from the date the Notice of Allowance issued, the application is abandoned (no longer pending/under consideration for approval). To continue the application process, the applicant must file a petition to revive the application within 2 months of the abandonment date.

Step 10. Applicant timely files SOU after requesting extensions: If the applicant is using the mark in commerce on all of the goods/services listed in the NOA, the applicant must submit an SOU and the required fee(s) within 6 months from the previous extension to avoid abandonment. Applicant cannot withdraw the SOU; however, the applicant may file one extension request with the SOU to provide more time to overcome deficiencies in the SOU. No further extension requests may be filed. Go to step 11.

Step 11. USPTO reviews SOU: If the minimum filing requirements are met, the SOU is forwarded to the examining attorney. The examining attorney conducts a review of the SOU to determine whether federal law permits registration. The applicant cannot withdraw the SOU and the filing fee(s) will not be refunded, even if the application is later refused registration on legal grounds. Approximately 1 month go to step 12a or step 12b.

Step 12a. SOU is approved and mark registers: If no refusals or additional requirements are identified, the examining attorney approves the SOU. Within approximately 2 months after the SOU is approved, the USPTO issues a registration. To keep the registration "live," the registrant must file specific maintenance documents. Between 5 to 6 years go to step 13 and every 10 years go to step 14.

Step 12b. USPTO issues letter (Office action): If refusals or requirements must still be satisfied, the examining attorney assigned to the application issues a letter (Office action) stating the refusals/requirements. This is the same process that occurs prior to publication of the mark if the examining attorney determines that legal requirements must be met. The process and time frames remain the same, except that if issues are ultimately resolved and the SOU is approved, the USPTO issues a registration within approximately 2 months. If all issues are not resolved, the application will abandon.

Step 13. Registration owner files Section 8 declaration: Before the end of the six-year period after the registration date, or within the six-month grace period after the expiration of the sixth year, the registration owner must file a Declaration of Use or Excusable Nonuse under Section 8. Failure to file this declaration will result in the cancellation of the registration.

Step 14. Registration owner files Section 8 declaration / Section 9 renewal: Within one year before the end of every 10-year period after the registration date, or within the six-month grace period thereafter, the registration owner must file a Combined Declaration of Use or Excusable Nonuse/Application for Renewal under Sections 8 and 9. Failure to make these required filings will result in cancellation and/or expiration of the registration.

LINK DIRECTORY FOR PRINTED MATERIAL

- [1] **Trademarks Home page**
<https://www.uspto.gov/trademark>
- [2] **Trademark Manual of Examining Procedure (TMEP)**
<https://tmep.uspto.gov>
- [3] **Acceptable Identification of Goods and Services Manual (ID Manual)**
<https://tmidm.uspto.gov>
- [4] **Trademark Information Network (TMIN) Videos**
<https://www.uspto.gov/trademarks-getting-started/process-overview/trademark-information-network>
- [5] **Trademark Electronic Search System (TESS)**
<http://tess2.uspto.gov/>
- [6] **Trademark Electronic Application System (TEAS)**
<http://www.uspto.gov/teas>
- [7] **Trademark Status and Document Retrieval (TSDR)**
<http://tsdr.uspto.gov/>
- [8] **Assignments database**
<http://www.uspto.gov/trademarks/process/assign.jsp>
- [9] **Trademark Trial and Appeal Board (TTAB)**
<http://www.uspto.gov/trademarks/process/appeal/index.jsp>
- [10] **copyright.gov**
<http://www.copyright.gov>
- [11] **uspto.gov/patents**
<http://www.uspto.gov/patents>
- [12] **Intellectual Property Awareness Assessment tool**
<http://www.uspto.gov/inventors/assessment>
- [13] **Trademark Manual of Examining Procedure (TMEP) Chapter 1200**
<https://tmep.uspto.gov/RDMS/TMEP/current#/current/TMEP-1200d1e1.html>
- [14] **TESS Help Page**
<http://tess2.uspto.gov/webaka/html/help.htm>
- [15] **PTRC locations in your state**
<http://www.uspto.gov/products/library/ptdl/index.jsp>
- [16] **American Bar Association's Consumer's Guide to Legal Help**
https://www.americanbar.org/groups/legal_services/flh-home/
- [17] **Law School Clinic Certification Program**
<https://www.uspto.gov/learning-and-resources/ip-policy/public-information-about-practitioners/law-school-clinic-1>
- [18] **Pro Bono IPL Resources in the United States**
https://www.americanbar.org/groups/intellectual_property_law/resources/probono/

- [19] **INTA trademark pro bono clearinghouse pilot program**
<https://www.inta.org/Advocacy/Pages/ProBonoClearinghouse.aspx>
- [20] **USPTO Systems Status and Availability**
<https://www.uspto.gov/blog/ebiz/>
- [21] **Filing documents during an outage**
<https://www.uspto.gov/trademarks-application-process/filing-online/filing-documents-during-outage>
- [22] **Trademark Initial Application Forms**
<https://www.uspto.gov/trademarks-application-process/filing-online/initial-application-forms>
- [23] **TEAS Change of Address or Representation form**
<https://teas.uspto.gov/wna/ccr/cca>
- [24] **Standard character set**
<http://www.uspto.gov/teas/standardCharacterSet.html>
- [25] **List of international classes**
<https://www.uspto.gov/trademark/trademark-updates-and-announcements/nice-agreement-current-edition-version-general-remarks>
- [26] **Trademark fee information**
<https://www.uspto.gov/trademark/trademark-fee-information>
- [27] **TMEP Chapter 1000**
<http://tess2.uspto.gov/tmdb/tmep/1000.htm>
- [28] **TMEP Chapter 1900**
<http://tess2.uspto.gov/tmdb/tmep/1900.htm>
- [29] **Madrid Protocol**
<http://www.uspto.gov/trademarks/law/madrid/>
- [30] **Process timelines for applications filed under different filing bases**
http://www.uspto.gov/trademarks/process/tm_timeline.jsp
- [31] **Official Gazette (OG)**
http://www.uspto.gov/news/og/trademark_og/index.jsp
- [32] **TMEP Sections 1110 et seq**
http://tess2.uspto.gov/tmdb/tmep/1100.htm#_T1110
- [33] **International Schedule of Classes of Goods and Services**
<http://www.uspto.gov/trademarks/notices/international.jsp>
- [34] **Trademark Basics**
<https://www.uspto.gov/trademarks-getting-started/trademark-basics>
- [35] **PTRC section**
<https://www.uspto.gov/learning-and-resources/support-centers/patent-and-trademark-resource-centers-ptrcs>



Published on February 2020