

From: [DSS](#)
To: [TM FR Notices](#)
Subject: USPTO comment submissions - Fred Porter
Date: Thursday, September 26, 2019 2:07:20 PM

To Whom It May Concern,

As a small business, it was very disheartening to be informed of the USPTO proposing to begin charging a fee of \$100 to \$200 for each Letter of Protest (LOP) submitted by business owners and citizens!

There is an onslaught of frivolous trademarks that clearly violate the USPTO's own guidelines.

For a mark for services, if the applied-for matter **would be perceived only as decoration or ornamentation** when used in connection with the identified services, a refusal as nondistinctive trade dress must issue under Trademark Act §§1, 2, 3, and 45, 15 U.S.C. §§1051, 1052, 1053, and 1127. See TMEP §§1202.02 and 1202.02(b)-1202.02(b)(ii) regarding trade dress and TMEP §§1301.02–1301.02(f) **regarding matter that does not function as a service mark.**

The number of them is only seems to be increasing. With the recent flood of Chinese trademark applications, even US Officials admit they are "surprised and overwhelmed" by the sheer number of application, as reported by The Wall Street Journal. Officials stating that they "appear to be rife with false information". Why should I, as a small US businessman, have to pay for Chinese citizens trademark schemes?

In the US: recent news about the University of Ohio trying to trademark "the" is outrageous! Even more so that a common word like "Dogs" would *granted a trademark*, as it was recently.

These are just two examples out of several hundreds of cases where common, English words and phrases simply **do not function as service marks** yet, have made it to the examining attorney's "complete examination" stage. TMEP 904.07(b). Many have gone on to become registered trademarks. See examples:

Salty People 5840667 WEEKEND EDITION 5550873 TEAM TIRED MOM 5840501 TEQUILA KILLS 5545986 THIS IS MY HAPPY PLACE 5822301 SASSHOLE 5544595 BUCK IT 5822262 WAR 5544499 KPOP 5816344 Mistakes 5544220 DY DANK YOU 5808159 I WILL WIN 5542855 WOMEN HUSTLE TOO 5797029 FEED ME TACOS 5541119 GROOVYDOOBIE 5776695 DAT'LL DO IT! 5539144 THE FUTURE BELONGS TO HER 5758769 BRIDE VIBES 5538362 LIVE WELL, MOVE BETTER 5758674 WORLD'S FAVORITE DOLL 5536397 I LOVE FLOWERS 5752444 DUH 5535385 UNITED WE SWEAT 5751118 WORKING HARD SO MY DOG CAN HAVE A GOOD LIFE 5534946 REVHERLUTION 5746888 MERMAID OFF-DUTY 5532856 LIFE'S GREAT - SUBJECT TO CHANGE 5746884 LIVE FREE VOTE RIGHT 5531740 SO FOWL 5741878 WORLD'S GREATEST COMIC STRIP CHARACTER 5530868 THIS IS JUST GENIUS 5741096 NAUTI BRIDE 5527592 HOOKED ON SALT 5741036 MAYBE YOU LITERALLY CAN EVEN 5526602 Pep Rally 5739346 PUPPER 5525742 DIVINE BADASS 5729300 ICE CRYSTALS 5524853 ELEVATE YOUR IRIE 5717061 MERMAIDS ARE COOLER THAN UNICORNS 5524640 THIS NEVER HAPPENED 5705052 DABBING SANTA 5524554 PILATES SNOB 5704866 GINGER 5522713 I SERVED 5704685 MAGICAL AF 5518668 Be kind to everyone 5699696 REMEMBER 5509691 THC THE HERBIN CULTURE 5699092 LIVE, LAUGH, DOG 5509109 Mom's Favorite 5697223 RESPECT FOR ALL 5505674 REMATCH 5693289 NEIGHBORHOOD 5505435 #BETHEKINDKID 5689360 BE THE MAN 5489044 THIS IS WHAT OLD LOOKS LIKE 5687523 JUGGLER 5483876 SMART GIRL POWER 5687429 JESUS COFFEE YOGA 5483772 CARNIVORE 5686763 I'D HIKE THAT 5458262 I DID IT FOR THE HOOD. 5676528 HONEY BUNNY 5446144 WOMEN LOVE MEN WHO COOK 5676520 LET'S GET SHAMROCKED 5436994 ELEVATE YOUR STATE 5676331 PINK MERMAID 5434275 IT'S A BEAUTIFUL DAY TO BE ALIVE 5658196 LIVE LAUGH HUG 5426363 HAPPY DAD LIFE AIN'T BAD 5657850 VS. EVERYBODY 5425760 1970 5651855 BIRD NERD 5417471 DEEPLY WELL 5651301 1776 5385816 THE VINE LIFE 5651288 LEGENDS ARE BORN 5384085

As a small business owner, what is my recourse when the government agency responsible for ensuring frivolous trademarks won't be registered is so swamped with applications that it becomes negligent in its duties in upholding trademark law? Filing a letter of protest.

TMEP 1715 Letters of Protest in Pending Application.

In essence I, and a countless army of Small American Businesses, are doing the work of an overtaxed USPTO by rooting out problematic applications and putting together well researched LOPs. For free!!

Why should we be punished by an out of control system (that is only getting worse by the month)?

If a fee *must* be charged, it should be levied against those that overtaxing the system with one frivolous application after another, receiving a "failure-to-function" refusal according to TMEP 904.07(b).

I ask the Commissioner for Trademarks to please consider the ramifications of *further swamping this burdened system* when an army of free LOP filers disappears.

Please feel free to contact me with any questions.

Fred Porter,
An American Small Business Owner