

Preparing an effective letter of protest (LOP)

John D. Dalier

Attorney Advisor, Office of the Deputy Commissioner for
Trademark Examination Policy

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UNITED STATES
PATENT AND TRADEMARK OFFICE



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- The slides will be emailed after the presentation.
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Discussion topics

- Overview and Trademark Modernization Act
- Filings
- Evidence
- LOP form
- Timeliness considerations
- Additional information

Discussion topics

Overview and Trademark Modernization Act

Overview

- LOP helps examination, without compromising objectivity.
- LOP applies only to pending applications.
- Deputy Commissioner for Trademark Examination Policy (Deputy Commissioner) Office reviews LOPs to determine whether to forward to examining attorneys for review.
- If considered: LOP itself not added to application file. Some or all of submitted evidence entered into record as attachment to memorandum and forwarded to examining attorney for review.
- If not considered: nothing related to LOP made of record or forwarded.

Overview

- LOP filed before publication: relevant evidence sent to examining attorney to consider whether to issue Office action with refusal or requirement.
- LOP filed after publication: if evidence establishes prima facie case for refusal, sent to examining attorney directing to issue Office action with refusal or requirement.
- If Deputy Commissioner determines LOP should not be considered: determination **not** reviewable.
- LOP form on USPTO's website:
<https://www.uspto.gov/trademarks/apply/petition-forms>.

Trademark Modernization Act impact

- LOP provisions codified at 37 C.F.R. §2.149.
- As of December 27, 2021: the USPTO has two months from LOP filing date to review.
- Trademark Manual of Examining Procedure §1715 covers procedures for ***LOP Against Pending Applications***.

Discussion topics

Filings

Filings

- Must timely file LOP via Trademark Electronic Application System, with \$50 fee (*change from previous procedures*)
- If evidence required for grounds LOP specifies, index itemizing evidence also **required** (*change from previous procedures*)
- Must provide protestor's email address in LOP form
- Must separately submit LOP for each protested application

Filing timeframes

- File LOP as soon as possible after application filed, and preferably before trademark publishes for opposition.
- Pre-publication: any time after application filed and day before mark publishes for opposition.
- Post-publication: any time between day of publication and close of 30-day opposition period.

When filed affects type of evidence required

- LOP filed **before publication**: must identify relevant ground(s) for refusal(s) or requirement(s) appropriate in ex parte examination, along with evidence supporting each refusal or requirement.
- LOP filed **after publication**: must include evidence establishing prima facie case for refusal(s) or requirement(s), such that failing to refuse registration or issue requirement would likely result in registration violating Trademark Act or Rules of Practice.
- LOP filed after publication and after 30-day opposition period is untimely and usually not considered.

Most common appropriate reasons for filing

- Likelihood of confusion with registered mark(s) or marks(s) in prior-pending application(s)
- Descriptiveness or genericness
- Registered mark(s) used inappropriately in identification
- Widely used or commonplace message
- Specimens of use produced solely for purposes of filing or do not show use of mark in ordinary course of trade
- False connection

Inappropriate reasons for filing

- Claim of common law prior use of trademark
- Claim that applicant not true owner of trademark in protested application
- Disagreement with examining attorney's examination decision in protested application

Discussion topics

Evidence

Itemized index

- If evidence required, **must** include index itemizing that evidence.
- Itemized evidence index format example: see **LOP practice tip** on USPTO's website:
<https://www.uspto.gov/trademarks/trademark-updates-and-announcements/letter-protest-practice-tip>.
- Itemized evidence index contains any persuasive language or arguments, or identifies protestor in any way: LOP **not** considered.

Itemized evidence index example

Index of evidence

Exhibit A

- Type of evidence: [e.g., webpage, dictionary definition, application, registration]
- Ground supported: [e.g., likelihood of confusion, descriptiveness]
- Page number: [fill in page number where exhibit appears, if applicable]

Exhibit B

- Type of evidence: [e.g., webpage, dictionary definition, application, registration]
- Ground supported: [e.g., likelihood of confusion, descriptiveness]
- Page number: [fill in page number where exhibit appears, if applicable]

Exhibit C

- Type of evidence: [e.g., webpage, dictionary definition, application, registration]
- Ground supported: [e.g., likelihood of confusion, descriptiveness]
- Page number: [fill in page number where exhibit appears, if applicable]

Amount of evidence

- Include no more than 10 items of evidence for each specified reason in LOP, but no more than 75 pages total.
- If special circumstances require more than 75 pages of evidence, must include detailed explanation of why; otherwise, LOP **not** considered.

Types of evidence: likelihood of confusion

- Provide registration number(s) or prior- pending application serial number(s) supporting likelihood of confusion argument
- Electronic copy of registration or application file from USPTO's Trademark Electronic Search System (TESS) or Trademark Status & Document Retrieval (TSDR) databases **not** required

Types of evidence: likelihood of confusion

- If goods or services identified in application and those identified in protestor's prior pending application or registration not identical, must submit relatedness evidence.
 - Third-party use-based registrations: must submit copies of those registrations from either TESS or TSDR database, showing registrations' current status, owner, and goods or services.
 - Third-party websites: must include URL and access or print date of each item of website evidence.
 - Copies of printed publications: must identify name and date of each of publications.

Types of evidence: descriptiveness or genericness

- Excerpts from online dictionaries showing meaning of applied-for trademark: include URL and access or print date of any online dictionaries
- Third-party websites using applied-for trademark in descriptive or generic manner for same goods or services in protested application: include URL and access or print date of each item of website evidence
- Evidence of descriptiveness or genericness in use-based registrations: include copies of registrations from either TESS or TSDR database showing current status and owner
- Material from printed publications using applied-for trademark in descriptive or generic manner for same goods or services in protested application: identify name and date of each publication

Types of evidence: improper use of registered mark(s) in identification

- Must provide registration number(s) for registered mark(s).
- May also provide common commercial name of goods and services applicant *should* have used in identification.

Types of evidence: widely used or commonplace message

- Must submit evidence showing public's perception of meaning of widely used message or commonplace phrase in protested application.
- Show people, other than applicant or protestor, using widely used message or commonplace phrase in everyday speech in news articles, webpages, and blogs.
- Show various sources using phrase in marketplace, e.g., screenshots of webpages showing variety of products bearing commonly used phrase on products or copies of articles showing variety of products bearing commonly used phrase on products.
- All website evidence: include URL and access or print date of each website.
- Material from printed publications: identify name and date of publications.

Types of evidence: specimen not in use

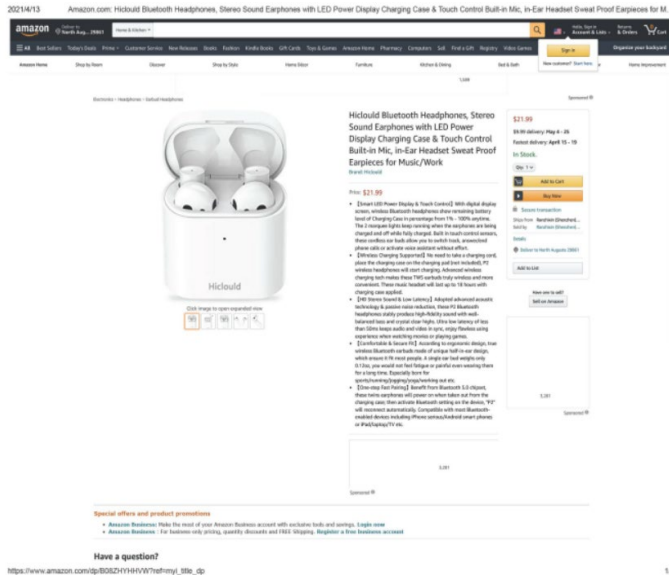
- Third-party websites using same image of goods shown in specimen, either without applied-for trademark or with different trademark: include URL and access or print date of each item of website evidence
- Forensic report demonstrating specimen was digitally created or altered or mocked-up
- Provide application serial number(s) for applicant's previously submitted application(s) for different mark(s), with specimens all showing identical images of objects or websites but with different marks

Types of evidence: specimen not in use

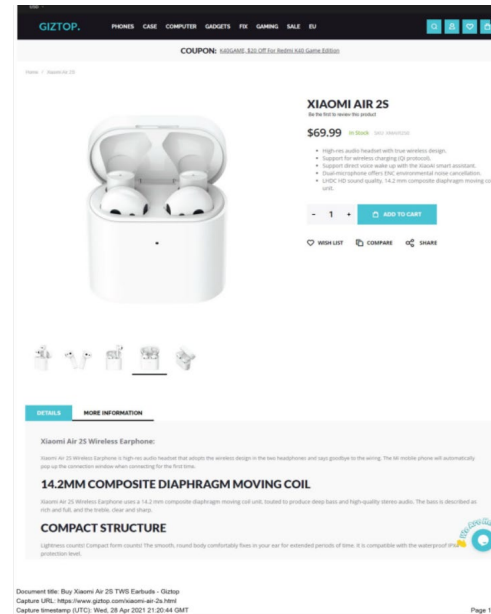
- Show specimen labels' UPC barcodes identical
- Prove specimen not in use on or prior to filing date
- Provide online retail store websites showing identified goods in protested application are unavailable, if combined with other evidence of nonuse: include URL and access or print date of each website

Specimen not in use example

- Evidence showing digitally created or altered specimen
- Applicant's specimen:



Protestor's evidence:



Types of evidence: false connection with protestor or another party

- Third-party websites, magazine articles, newspaper articles, etc., showing that proposed mark would be viewed as pointing uniquely and unmistakably to protestor or some other party.
- All website evidence: include URL and access or print date of each website.
- All items of material from printed publications: identify name and date of each publication.

How to remain under 75 pages of evidence

- Do not submit copy of prosecution history for protested application or registrations submitted as third-party registration evidence. Instead, show ownership and status of third-party registrations, and even goods and services, on single item of evidence captured from TSDR.
- Do not include information or evidence of alleged prior use, evidence of alleged incidents of actual confusion, or declarations supporting reason for LOP (relevant for inter partes proceedings at the Trademark Trial and Appeal Board (TTAB), **not** for an LOP.)
- Do not submit evidence examining attorney previously used in Office action in protested application.

Discussion topics

LOP form

LOP form



10. [Letter of Protest form](#)

Preview [Letter of Protest form](#) here. For viewing purposes only. Do not fill out or mail. [See fee schedule for current filing fee.](#)

Use this form to provide evidence to the USPTO to identify reasonable grounds for refusing a third party's registration (such as likelihood of confusion with an existing registration, or evidence that a mark is descriptive). Prior use or allegations of fraud are not grounds for accepting a letter of protest. Do not provide arguments because they will not be considered.

The letter of protest should not be used to express public opinion about a particular mark. Trademark registration is governed by statutory laws and federal regulations. Public opinion may not influence the application process.

If your letter of protest refers to a prior pending application or registration, provide the relevant serial or registration numbers. However, if the goods or services in the protested application and the goods or services in the prior pending application or registration are not identical, you must also provide objective factual evidence that the goods and services are related. If you don't provide evidence, your letter will not be considered.

Timeliness

You should file a letter of protest before a mark is published in the Official Gazette. The letter may be accepted after publication, but only if you establish a prima facie case for refusal of registration, and only if you file it no later than thirty (30) days after the publication date. You cannot file a letter of protest for registered marks, but you can file a petition with the Trademark Trial and Appeal Board to cancel a registered mark.

For more information on letters of protest, see [TMEP §1715](#). See also the [Letter of Protest Practice Tip](#).

LOP form – in action

1. Do you need to file a letter of protest? Identify the [legal basis](#) below.

NOTE: Prior use of the mark, a dispute over ownership of mark, or issues of fraud are NOT an appropriate legal basis for filing a letter of protest and will result in the denial of the letter of protest.

Check the appropriate box(es) to answer YES to this question. More than one option can be selected:

- Mark is likely to cause confusion with an existing U.S. Trademark Registration or prior pending application or application with an earlier effective filing date or priority claim. Enter U.S. Registration Number(s)/Serial Number(s) in the text box. The protestor should not identify more than the five most relevant registrations or applications that could form a basis for refusal. If the protestor identifies more than five registrations or applications, only the first five identified registrations or applications will be considered.

Registration/Serial Number(s) must be separated by commas and without additional punctuation (e.g. "324xxxx, 572xxxx, 90xxxxxx, 79xxxxxx, 88xxxxxx").

- Mark is **generic**.
- Mark is merely descriptive or misdescriptive, or should have an element disclaimed on that basis.
- Mark is primarily geographically descriptive or misdescriptive, or should have an element disclaimed on that basis.
- Mark is involved in pending litigation that involves a federally registered mark or prior pending application. Remedy requested in court proceeding includes cancellation, abandonment or amendment of the protested application. Copy of the relevant pleading is attached in the evidence section.
- Previously registered mark is being used inappropriately in the identification of goods/services. Enter U.S. Registration Number in text box. Identify the registered mark and exactly where in the identification of goods/service it is being used in the description of the evidence section on the next screen.
- Other Legal Basis. Explanation of legal basis.

LOP form – in action

Letter of Protest TEAS - Version 7.8

EVIDENCE

You **must** attach evidence to support the legal grounds for refusal of registration. To maintain the integrity of the ex parte examination process, evidence should never identify the protestor or its representatives or contain any arguments or persuasive language. The evidence must be objective, independent, and factual and not consist of links to websites but include copies of the actual webpages.

An index is required for all letters of protest unless the ground is likelihood of confusion and the goods/services are identical. The index should be on a separate page and not appear on letterhead, identify the protestor, or include legal arguments or persuasive language. The submitted evidence must not include more than 10 items per ground and may not exceed 75 total pages or the letter of protest will not be considered.

If the protest is based on a likelihood of confusion with a U.S. Registration(s) or prior pending application(s), provide an electronic copy of the registration/application file from the USPTO TESS or TSDR databases showing the current status and owner; providing the registration or serial number is not sufficient. Do not identify more than five of the most relevant U.S. Registrations or serial numbers. If more than five registrations or serial numbers are provided, only the first five registrations or applications will be considered. If the goods/services are not identical, evidence of the relatedness of the goods/services must be attached or the letter of protest will not be considered.

If the legal basis for your letter of protest is that a previously registered mark is being used inappropriately in the protested application's identification of goods/services (ID), please identify the U.S. Registration number of the previously registered mark in the Legal Basis section of this form and, in the text entry box below, indicate the mark that appears in the protested application's ID and exactly where in the ID it is being used. You may also suggest an appropriate generic term that should be used instead of the registered mark.

Evidence

Evidence File

Click on the 'Browse' button to select a [JPG/PDF file](#) that contains the information from your local drive.

WARNING: The file size cannot exceed 5 megabytes per attachment for JPG or 30 megabytes per attachment for PDF. You must include information about your letter of protest.

Click here to Attach Evidence 0 file(s) attached

Describe what the evidence submitted consists of:

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Continue



LOP form – in action

Letter of Protest TEAS - Version 7.8

Protestor and Correspondence Information	
* Name of Protestor	<input type="text"/>
* Correspondent Name for Letter of Protest	<input type="text"/>
Correspondent Law Firm (if applicable)	<input type="text"/>
* Street Address	<input type="text"/> <small>NOTE: You must limit your entry here, and for all remaining fields within this overall section (except City, see below), to no more than 40 characters (the storage limit for the USPTO database). You may need to abbreviate some words, e.g., St. instead of Street. Failure to do so may result in an undeliverable address, due to truncation at the 40 character limit.</small>
Suite/Apartment No	<input type="text"/>
* City	<input type="text"/> <small>NOTE: You must limit your entry here to no more than 22 characters.</small>
* State (Required for U.S. addresses)	State <input type="text" value="State"/> <input type="button" value="v"/> <small>NOTE: You must include as part of the "City" entry any information related to geographical regions (e.g., provinces) not found in the dropdown lists for "States" or "Countries." Enter the city and then the geographical region, separated by a comma (e.g., Toronto, Ontario). In most instances, you will then also have to select the country within which the region is found, below.</small>
* Country/Region/Jurisdiction/U.S. Territory	Select Country/Region/Jurisdiction/U.S. Territ <input type="button" value="v"/>
* Zip/Postal Code (Required for U.S. and certain international addresses)	<input type="text"/>
Phone Number	<input type="text"/>
Fax Number	<input type="text"/>
* Email Address	<input type="text"/> The USPTO will issue a decision on your letter of protest by email.

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Continue



LOP form – in action

Letter of Protest TEAS - Version 7.8

Fee Information

Payment options: You will have three payment options ([credit card](#), [automated deposit account](#), and [Electronic Funds Transfer](#)). These options will appear after completing and validating this form.

LETTER OF PROTEST FEE \$50

Signature Information

Click to choose ONE [signature method](#):

[Sign directly](#) [Email Text Form to second party for signature](#) [Handwritten pen-and-ink signature](#)

Electronic Signature

To electronically sign this letter of protest, enter any alpha/numeric characters (letters/numbers) of your choosing, preceded and followed by the forward slash (/) symbol. Most signatories enter their name between the two forward slashes; examples of acceptable "signatures" include: /john doe/; /jd/; or /123-4567/.

* Signature	<input type="text"/>	* Date Signed	<input type="text"/> (MM/DD/YYYY)
<small>Examples of acceptable "signatures" include: /john doe/; /jd/; or /123-4567/. NOTE: Must be personally signed by the individual listed in the Signatory's Name field. 37 C.F.R. §2.193(a). The person signing may not enter someone else's signature.</small>			
* Signatory's Name	<input type="text"/>		
* Signatory's Position	<input type="text"/>		
<small>NOTE: Limit your entry to no more than 150 characters (the storage limit for this field in the USPTO database). NOTE: Enter the appropriate title.</small>			
Signatory's Phone Number	<input type="text"/>		

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Validate



LOP notice of determination, if considered

United States Patent and Trademark Office (USPTO)

U.S. Application Serial No. 90524488

Mark: UNITED STATES PROTECTIVE SERVICE

Correspondence Address Mary Klumpp
245 Murray Lane
Mail Stop 0205
Washington
District of Columbia (DC), 20528

Correspondence Email Address:
mary.klumpp@hq.dhs.gov

Letter of Protest Notice of Determination

Issue date: May 11, 2021

The United States Patent and Trademark Office (USPTO) received your letter of protest submitted on March 16, 2021. 37 C.F.R. §2.149.

We considered the letter of protest and determined that it identifies one or more grounds for refusal appropriate in ex parte examination. The examining attorney will decide whether a refusal or requirement should be raised or ultimately made final. See 37 C.F.R. §2.149(d)(1).

Some or all of the evidence satisfies the requirements for letters of protest and will be included in the application record for the examining attorney to consider. Any grounds or evidence that do not comply with the requirements will not be included. You may view the ground(s) and evidence included in the application record and monitor the application status on our [Trademark Status and Document Retrieval system](#).

Please see the [Letter of protest practice tip](#) for further information about letter of protest procedure and evidence requirements.

You may not communicate directly with the examining attorney, either orally or in writing, regarding the application. 37 C.F.R. §2.149(k).

Submitting a letter of protest does not stay or extend the time for filing a notice of opposition with the Trademark Trial and Appeal Board (TTAB) after a trademark has published in the *Official Gazette*. 37 C.F.R. §2.149(e).

The determination whether to include evidence in an application record is final and non-reviewable. Trademark Act of 2020, §3 (to be codified at 15 U.S.C. §1051(f)); 37 C.F.R. §2.149(i).

/John D. Dalier/
Attorney Advisor
Office of the Deputy Commissioner
for Trademark Examination Policy
john.dalier@uspto.gov
571.272.7412



LOP appearance in TSDR prosecution history and documents, if considered

▼ Prosecution History		
Date	Description	Proceeding Number
May 15, 2021	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
May 11, 2021	LETTER OF PROTEST EVIDENCE FORWARDED	
Feb. 15, 2021	NEW APPLICATION ENTERED IN TRAM	

▼ Trademark Documents

▼ Expand All

Select All <input type="checkbox"/>	Create/Mail Date	Document Description	Document Type
<input type="checkbox"/>	May 11, 2021	Administrative Response	MULTI
<input type="checkbox"/>	Feb. 11, 2021	Application	MULTI
<input type="checkbox"/>	Feb. 11, 2021	Drawing	JPEG
<input type="checkbox"/>	Feb. 11, 2021	Specimen	JPEG

LETTER OF PROTEST MEMORANDUM

Date: May 11, 2021

To: Examining Attorney

From: John D. Dalier
Attorney Advisor
Office of the Deputy Commissioner
for Trademark Examination Policy

Subject: Letter of protest concerning U.S. Application Serial No. 90524488
for the mark UNITED STATES PROTECTIVE SERVICE

Upon consideration of evidence included with a letter of protest filed before publication of the above-referenced mark, it has been determined that the evidence is relevant to the following ground(s) for refusal and/or requirement(s):

Possible likelihood of confusion under Trademark Act Section 2(d) with U.S. Registration No. 6016598; and,

Possible false association of the mark under Trademark Act Section 2(a) with the U.S. Department of Homeland Security's Federal Protective Service.

U.S. Registration No. 6016598 is available in the XSearch database for your consideration. Evidence supporting the possible false association of the mark under Trademark Act Section 2(a) with the U.S. Department of Homeland Security's Federal Protective Service has been included in the record for your consideration. Please review it and determine whether to issue a refusal or make a requirement. 37 C.F.R. §2.149(d)(1); TMEP §1715.02.

NOTE: The consideration of a letter of protest filed before publication is not a legal determination by the USPTO of registrability, nor is it meant to compromise the integrity of the ex parte examination process. It merely serves to bring the submitted evidence to the attention of the examining attorney, who determines whether a refusal or requirement should be raised or ultimately made final. See 37 C.F.R. §2.149(d)(1).

The screenshot shows the ExecutiveGov website with a navigation bar at the top. The main content area features a large article titled "FEDERAL PROTECTIVE SERVICE AUTOMATES THREAT ASSESSMENT PROCESSES" with a sub-image of a white SUV. Below this are several smaller articles and sections: "RELATED ARTICLES" with icons for the Department of Homeland Security and the Department of Justice; "PAVILION" with a logo; "SAFEGUARD YOUR OPERATIONS, DATA AND MISSIONS" with a video player; "ARTIFICIAL INTELLIGENCE" with a graphic; and "RECENT NEWS" with a list of items. The right sidebar contains "RECENT NEWS" and "YOU MAY ALSO BE INTERESTED IN" sections, including a video player for "Huntington Ingalls Industries".

Common reasons for not considering LOP

- LOP includes no evidence, where evidence required to support stated reason(s)
- LOP does not include itemized evidence index, where evidence required to support stated reason(s)
- Information written on itemized evidence index itself identifies protestor (or protestor's counsel) or presents arguments
- More than 10 items of evidence per reason; more than 75 total pages of evidence without detailed and sufficient explanation that establishes special circumstances requiring more than 75 total pages of evidence
- **All** third-party registrations, submitted to show relatedness of goods and services, **not** based on use

Common reasons for not considering LOP

- Typographical errors when identifying registration numbers upon which LOP based
- URL and access or print date of webpage screen capture items of evidence not provided
- Name of publication and date of publication when copies of printed publications used as evidence not provided, and no other evidence included
- Two items of evidence shown on single page, with one of those items being unacceptable, and no other evidence provided
- Examining attorney already raised stated reason(s) for LOP in Office action

LOP notice of determination, if not considered

United States Patent and Trademark Office (USPTO)

U.S. Application Serial No. 90504083

Mark: QUANTUMENERGY

Correspondence Address Sarah M. Robertson
51 West 52nd Street
New York
New York (NY), 10019-6119

Correspondence Email Address:
ny.trademark@dnrnet.com

Letter of Protest Notice of Determination

Issue date: July 15, 2021

The United States Patent and Trademark Office (USPTO) received your letter of protest (LOP) submitted on April 19, 2021. 37 C.F.R. §2.149. The LOP identifies the following ground(s) for refusal:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Likelihood of confusion | <input type="checkbox"/> Merely descriptive or generic mark |
| <input type="checkbox"/> Failure to function as a mark | <input type="checkbox"/> Registered mark in identification |
| <input type="checkbox"/> False suggestion of connection | <input type="checkbox"/> Red Cross |
| <input type="checkbox"/> Specimen is not in use in commerce | <input type="checkbox"/> Not in lawful use in commerce |
| <input type="checkbox"/> Other | <input type="checkbox"/> Pending civil litigation |

The LOP will not be considered because it does not meet the legal requirements. 37 C.F.R. §2.149. Specifically:

- | | |
|--|---|
| <input type="checkbox"/> LOP is untimely | <input type="checkbox"/> Examining attorney already considered identified ground(s) for refusal |
| <input type="checkbox"/> LOP is moot | <input type="checkbox"/> LOP does not identify appropriate subject matter for examination |
| <input checked="" type="checkbox"/> LOP does not include evidence | |
| <input type="checkbox"/> LOP evidence is non-compliant, not relevant, or fails to establish a prima facie case for refusal | <input type="checkbox"/> Other |

The LOP does not actually include any factual, objective evidence to support the stated ground for refusal. Specifically, an LOP identifying a Section 2(d) ground for refusal must include actual

evidence, not just a listing of evidentiary references, showing the relatedness of the goods if they are not identical. Therefore, this LOP will not be considered. Please see the [Letter of protest practice tip](#) for further information about LOP procedure and evidence requirements.

You may not communicate directly with the examining attorney, either orally or in writing, regarding the application. 37 C.F.R. §2.149(k).

Submitting an LOP does not stay or extend the time for filing a notice of opposition with the Trademark Trial and Appeal Board (TTAB) after a trademark has published in the *Official Gazette*. 37 C.F.R. §2.149(e). You may monitor the application status on our [Trademark Status and Document Retrieval system](#).

The determination whether to include evidence in an application record is final and non-reviewable. Trademark Act of 2020, §3 (to be codified at 15 U.S.C. §1051(f)); 37 C.F.R. §2.149(i). You may file a new LOP if it is timely and meets the legal requirements. 37 C.F.R. §§2.149(c), (f), (j).

/John D. Dalier/
Attorney Advisor
Office of the Deputy Commissioner
for Trademark Examination Policy
john.dalier@uspto.gov
571.272.7412



Pre-publication LOP – example of TSDR prosecution history showing evidence forwarded from considered LOP, where examining attorney took no further action on evidence



▼ Prosecution History		
Date	Description	Proceeding Number
Nov. 04, 2021	LETTER OF PROTEST EVIDENCE REVIEWED-NO FURTHER ACTION TAKEN	92997
Nov. 03, 2021	LETTER OF PROTEST EVIDENCE FORWARDED	

Discussion topics

Timeliness considerations

Timeliness considerations

- If 44(d) or 66(a) application not in Office records when protested application approved for publication, late LOP may be accepted. No petition required. *See* TMEP §1715.02.
- LOP against §66(a) application: must file before 18-month deadline after International Bureau transmitted application to the USPTO; otherwise, untimely. *See* Trademark Act §68(c) and Article 5 of the Madrid Protocol.



Timeliness considerations

- If file LOP within 30 days of publication, but protested application cannot be withdrawn from issuance of registration while consideration of protest pending, LOP may be considered untimely.
- Must submit requests to waive timeliness for other situations on petition to the Director. Only granted in extraordinary situations. Examples:
 - Application published with Section 1(b) filing basis and protestor wants to present evidence that specimen submitted with Statement of Use does not show mark in use.
 - Evidence for LOP did not exist prior to publication.



Discussion topics

Additional information

Before you file an LOP ...

- For frequently updated information about LOP procedures and evidentiary requirements, please review **LOP practice tip** on USPTO's website:
<https://www.uspto.gov/trademarks/guides-manuals-resources/practice-tips>.

Beyond an LOP...

- Protestor must still file notice of opposition, or request for extension of time to file opposition, within 30 days of publication date in order to oppose registration of mark at the TTAB.
- Submitting LOP does not stay or extend time for filing notice of opposition with the TTAB after trademark has published in Official Gazette.

Contacting the Petitions Office Via the Trademark Assistance Center (TAC)

TAC is the main support center for all customers, including those filing an LOP. If TAC cannot assist you with your particular question(s) about an LOP, they will refer your call to an attorney on duty for the day in the Petitions Office.

Call TAC Toll-Free at 800-786-9199 (press 1) or email them at TrademarkAssistanceCenter@uspto.gov

TAC is open Monday-Friday, 8:30 a.m. to 8:00 p.m. ET but closed on federal holidays.



Questions and answers





Thank you!

John D. Dalier

Attorney Advisor

Office of the Deputy Commissioner for
Trademark Examination Policy

www.uspto.gov