

Chapter 500 Change of Ownership

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501 Assignment of Marks

501.01 Assignability of Marks in Applications and Registrations

15 U.S.C. §1060(a)

(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

(3) Assignments shall be by instruments in writing duly executed...

37 CFR §3.1 (Extract)

*** Assignment means a transfer by a party of all or part of its right, title and interest in a patent, patent application, registered mark or a mark for which an application to register has been filed.

501.01(a) Assignability of Intent-to-Use Applications

In an application under §1(b) of the Trademark Act, 15 U.S.C. §1051(b), the applicant cannot assign the application before the applicant files an allegation of use (i.e., either an amendment to allege use under 15 U.S.C. §1051(c) or a statement of use under 15 U.S.C. §1051(d)), except to a successor to the applicant's business, or portion of the business to which the mark pertains, if that business is ongoing and existing. Section 10 of the Trademark Act, 15 U.S.C. §1060; 37 C.F.R. §3.16.

The primary purpose of this provision is to ensure that a mark may only be assigned along with some business or goodwill, and to prevent "trafficking" in marks.

As a general rule, the United States Patent and Trademark Office ("USPTO") does not investigate or evaluate the validity of assignments. Therefore, the examining attorney should issue an inquiry concerning the compliance of an assignment with the cited provisions of §10 only if:

(1) The application itself includes a statement indicating that the assignee is not a successor to the original applicant's business, or portion of the business to which the mark pertains, if that business is ongoing and existing; or

(2) All of the following conditions are present:

(a) The assignment is executed before the filing of an allegation of use;

(b) The applicant submits the assignment document for inclusion in the application record in the Trademark database, and not just to the Assignment Recordation Branch; *and*

(c) The assignment document fails to include the relevant language from §10 to the effect that the assignment includes the entire business of the applicant/assignor or the portion of the business to which the mark pertains.

The examining attorney should not require the submission of assignment documents to determine compliance.

If the examining attorney issues an inquiry, the applicant's statement that the assignment was in compliance with the cited provision of §10 is sufficient to resolve the issue. This statement may be entered through an examiner's amendment.

The assignment of an intent-to-use application to someone who is not the successor to the applicant's business before filing an allegation of use renders the application void, and any resulting registration must be cancelled.

Cent. Garden & Pet Co. v. Dorskocil Mfg. Co., 108 USPQ2d 1134, 1146 (TTAB 2013); *Clorox Co. v. Chemical Bank*, 40 USPQ2d 1098, 1105-06 (TTAB 1996); *cf. Amazon Techs., Inc. v. Wax*, 95 USPQ2d 1865, 1872 (TTAB 2010) (finding "the assignment from one joint applicant to another, where the assignee joint applicant was and remains an owner of the application," more akin to a "relinquishment" of ownership rights by one joint owner than a true "assignment" to a different legal entity, and thus not prohibited under §10).

501.01(b) Assignability of Extensions of Protection of International Registrations to the United States

Under §72 of the Trademark Act, 15 U.S.C. §1141 *l*, an extension of protection to the United States may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment in a country that is party to the Madrid Protocol (or in a country that is a member of an intergovernmental organization that is a party to the Madrid Protocol). See [TMEP §501.07](#) for further information about assignment of §66(a) applications and registered extensions of protection to the United States, and [TMEP Chapter 1900](#) for further information about the Madrid Protocol.

501.02 Assignments Must Be in Writing

15 U.S.C. §1060(a)(3)

(Extract) Assignments shall be by instruments in writing duly executed. ***

501.03 Effect of Failure to Record Assignment

15 U.S.C. §1060(a)(3)

(Extract)

(3) ***Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office, the record shall be prima facie evidence of execution.

(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

See [TMEP §503](#) *et seq.* regarding the recordation of assignments in the Assignment Recordation Branch of the USPTO.

501.04 Foreign Assignee May Designate Domestic Representative

15 U.S.C. §1060(b)

An assignee not domiciled in the United States may designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Director.

37 CFR §3.61

If the assignee of a patent, patent application, trademark application or trademark registration is not domiciled in the United States, the assignee may designate a domestic representative in a document filed in the United States Patent and Trademark Office. The designation should state the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the application, patent or registration or rights thereunder.

An assignee not domiciled in the United States may designate, by a document filed with the USPTO, the name and address of a domestic representative. 15 U.S.C. §§1051(e), 1058(f), 1059(c), and 1060(b); 37 C.F.R. §3.61; [TMEP §610](#). The USPTO encourages assignees who do not reside in the United States to designate domestic representatives.

When an assignee designates a domestic representative, the designation should be in a document separate from the assignment document. One copy of the designation of domestic representative should be sent to the Assignment Recordation Branch with the document to be recorded. In addition, the assignee should send a separate copy of the designation to the Trademark Branch of the USPTO (“Trademark Operation”) for each registration or application to which an assignment pertains, so that a copy of the designation can be entered in each official record that is identified in the assignment document. 37 C.F.R. §2.193(g).

501.05 Assignee Stands in Place of Applicant or Registrant

15 U.S.C. §1127 (Extract)

The terms “applicant” and “registrant” embrace the legal representatives, predecessors, successors and assigns of such applicant or registrant.

37 CFR §3.71(d) Trademarks.

The assignee of a trademark application or registration may prosecute a trademark application, submit documents to maintain a trademark registration, or file papers against a third party in reliance on the assignee's trademark application or registration, to the exclusion of the original applicant or previous assignee. The assignee must establish ownership in compliance with § 3.73(b).

An assignee, like an applicant, must be a natural or juristic person. See 15 U.S.C. §1127 and [TMEP §803](#).

501.06 Partial Assignments

A trademark may be owned by two or more persons (see [TMEP §803.03\(d\)](#)), and a co-owner may assign his or her interest in a mark. Also, a party who is the sole owner of a mark may transfer a portion (e.g. , 50%) of his or her interest in the mark to another party.

A trademark owner may also assign a separate portion of a business, together with the good will and trademarks associated with that portion of the business, but retain rights in the mark for uses pertaining to another part of the business. See *VISA, U.S.A., Inc. v. Birmingham Trust National Bank*, 696 F.2d 1371, 216 USPQ 649 (Fed. Cir. 1982), cert. denied, 464 U.S. 826, 220 USPQ 385 (1983). Accordingly, one or more trademarks of a company can be validly assigned if the assignor transfers the good will associated with only some of the goods/services on which that mark appears. After a registration has been assigned with respect to only some of the goods/services, both owners must file the necessary renewal applications and affidavits of continued use or excusable nonuse under 15 U.S.C. §1058 or §1141k to maintain the registration. If only one party files, only those goods/services in the registration for which that party owns the mark are continued or renewed. See [TMEP §§1604 et seq.](#) and [1613](#) regarding affidavits of continued use or excusable nonuse, and [TMEP §§1606 et seq.](#) and [1614](#) regarding renewal.

A trademark owner may not use an assignment to impose geographic restrictions on a registration. This must be done by way of a concurrent use proceeding before the Trademark Trial and Appeal Board, or pursuant to a final determination by a federal court. 15 U.S.C. §1052(d). See [TMEP §§1207.04 et seq.](#) and [Trademark Trial and Appeal Board Manual of Procedure](#) (“TBMP”) Chapter 1100 regarding concurrent use registration. However, the Assignment Recordation Branch of the USPTO will record an assignment purporting to transfer rights in an unrestricted registration for less than the entire United States, because it is a transfer that may affect title to the registration. As noted in [TMEP §503.01\(c\)](#), the Assignment Recordation Branch does not examine the substance of documents submitted for recording. The act of recording the document is not a determination of the validity or effect of the purported assignment and does not create a concurrent use registration.

A trademark owner who files a partial assignment is strongly encouraged to file a separate request to divide so that the USPTO can more effectively track and administer applications and post registration filings, and ensure that USPTO records accurately reflect current ownership information. In pending applications in which a partial assignment and a request to divide are filed, the ITU/Divisional Unit will process the request to divide and ensure that the USPTO records reflect current ownership information. Because the assignment records of the parent application do not appear in the newly created child application, the ITU staff will place a copy of the Trademark Assignment Abstract of Title for the parent application in the trademark records of the child application. The abstract will be viewable via the Trademark Image Capture Retrieval System (“TICRS”) and the Trademark Status and Document Retrieval (“TSDR”) portal on the USPTO website at <http://tsdr.uspto.gov/>. The assignment information in the parent application will remain accessible via the Assignment database on the USPTO website at <http://assignments.uspto.gov/assignments>. After the request to divide is processed and the child application is created, any new recordations in the child application will appear in the Assignment database. See [TMEP §§1615 et seq.](#) regarding requests to divide

registrations in which ownership has changed with respect to some but not all of the goods/services, and [TMEP §§1110](#) *et seq.* regarding request to divide pending applications.

501.07 Assignment of Extension of Protection of International Registration to the United States

15 U.S.C. §1141I Assignment of an Extension of Protection:

An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

Under §72 of the Trademark Act, 15 U.S.C. §1141 *I*, an extension of protection of an international registration to the United States may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment in a country that is a party to the Madrid Protocol (or in a country that is a member of an intergovernmental organization that is a party to the Madrid Protocol).

Because the extension of protection remains part of the international registration, assignments of extensions of protection to the United States must be recorded at the International Bureau of the World Intellectual Property Organization (“IB”). The IB will notify the USPTO of any changes in ownership, including changes in owner name, recorded in the International Register. The USPTO will record only those assignments (or other documents affecting title) that have been recorded in the International Register, and will automatically update the USPTO’s Trademark database to reflect these changes.

See [TMEP §§1906.01](#) and [1906.01\(a\)](#) for information about recording changes of ownership of international registrations with the IB.

Section 10 of the Trademark Act and 37 C.F.R. Part 3 do not apply to assignments of international registrations or extensions of protection to the United States. 37 C.F.R. §7.22.

See [TMEP §§1110.11](#) and [1615.02](#) regarding division of an extension of protection to the United States after ownership of an international registration has changed with respect to some, but not all, of the goods/services.

502 Establishing Ownership of Applications or Registrations

37 CFR §3.73(a) (Extract)

* * * The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.

Section 1 or § 44 Applications. In an application or registration based on §1 or §44 of the Trademark Act, 15 U.S.C. §1051 or §1126, an assignee is not required to record the assignment in order to take an action with respect to an application or registration. However, an assignee must establish ownership in order to take action in an application or registration. 37 C.F.R. §3.73(b); [TMEP §502.01](#). In addition, the assignee must record the assignment (or other document affecting title) with the Assignment Recordation Branch of the USPTO to obtain a certificate of registration in the name of the assignee. 37 C.F.R. §3.85; [TMEP §§502.02\(a\)](#) and [502.03](#). Moreover, it is advisable for an applicant or registrant to record the assignment to ensure that it is valid, under §10(a)(4) of the Trademark Act, against subsequent purchasers for valuable consideration without notice. See [TMEP §501.03](#).

Section 66(a) Applications. In an application under §66(a) of the Trademark Act or a registered extension of protection, the new owner must record the assignment with the IB in order to take an action with respect to an application or registration, or to obtain a certificate of registration in the name of a new owner. [TMEP §§502.01](#), [502.02\(b\)](#), and [502.03](#). See [TMEP §501.07](#) regarding the assignment of extensions of protection of international registrations, and [TMEP §§1906.01](#) and [1906.01\(a\)](#) for information about recording changes of ownership of international registrations with the IB.

502.01 Establishing the Right to Take Action in Application or Registration

37 CFR §3.73(b)

(1) In order to request or take action in a patent or trademark matter, the assignee must establish its ownership of the patent or trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment). For trademark matters only, the documents submitted to establish ownership may be required to be recorded pursuant to §3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office. For patent matters only, the submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to §3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

(2) The submission establishing ownership must show that the person signing the submission is a person authorized to act on behalf of the assignee by:

(i) Including a statement that the person signing the submission is authorized to act on behalf of the assignee; or

(ii) Being signed by a person having apparent authority to sign on behalf of the assignee, e.g., an officer of the assignee.

Applications and Registrations Based on §§1 and 44 of the Trademark Act. In an application or registration based on §1 or §44 of the Trademark Act, when a party other than the owner of record attempts to take an action with respect to an application or registration (e.g., filing a response to an Office action, allegation of use under 15 U.S.C. §1051(c) or §1051(d), request for an extension of time to file a statement of use under 15 U.S.C. §1051(d)(2), affidavit of continued use or excusable nonuse under 15 U.S.C. §1058 (“§8 affidavit”), or renewal application under 15 U.S.C. §1059 (“§9 renewal application”)), the party must establish ownership of the application or registration. To establish ownership, the new owner must either: (1) record the assignment (or other document affecting title) with the Assignment Recordation Branch of the USPTO, and notify the Trademark Operation that the document has been recorded; or (2) submit other evidence of ownership, in the form of a document transferring ownership from one party to another, or an explanation, in the form of an affidavit or declaration under 37 C.F.R. §2.20, that a valid transfer of legal title has occurred. 37 C.F.R. §3.73(b)(1). The document(s) must show clear chain of title from the original owner to the party who is taking the action.

See 37 C.F.R. §3.85 and [TMEP §§502.02\(a\)](#) and [502.03](#) regarding issuance of a certificate of registration in the name of a new owner.

Section 66(a) Applications and Registered Extensions of Protection. In an application under §66(a) of the Trademark Act or a registered extension of protection, the new owner must record the assignment with the IB in order to take an action with respect to an application or registration. The new owner does not have the option of submitting documentary evidence of ownership, pursuant to 37 C.F.R. §3.73(b).

The IB will notify the USPTO of any changes in ownership, including changes in owner name, recorded in the International Register. The USPTO will record only those assignments (or other documents affecting

title) that have been recorded in the International Register. See [TMEP §501.07](#) for further information about assignment of extensions of protection of international registrations, and [TMEP §§1906.01](#) and [1906.01\(a\)](#) for information about recording changes of ownership of international registrations with the IB. The document(s) must show clear chain of title from the original owner to the party who is taking the action.

Part 3 of 37 C.F.R. does not apply to §66(a) applications and registered extensions of protection. 37 C.F.R. §7.22.

502.02 Pending Applications - Issuance of Registration Certificate in Name of Assignee or in Applicant's New Name

502.02(a) Applications Under §§1 and 44 of the Trademark Act

37 CFR §3.85 Issue of registration to assignee.

The certificate of registration may be issued to the assignee of the applicant, or in a new name of the applicant, provided that the party files a written request in the trademark application by the time the application is being prepared for issuance of the certificate of registration, and the appropriate document is recorded in the Office. If the assignment or name change document has not been recorded in the Office, then the written request must state that the document has been filed for recordation. The address of the assignee must be made of record in the application file.

Document Must Be Recorded with Assignment Recordation Branch. In an application under §1 or §44 of the Trademark Act, a new owner must record the assignment, change of name, or other document affecting title with the Assignment Recordation Branch of the USPTO to obtain a certificate of registration in the name of the new owner (or in applicant's new name). 37 C.F.R. §3.85. However, the registration will not issue in the name of the new owner, unless the ownership field in the Trademark database is updated to reflect the recorded assignment prior to approval of the mark for publication or registration on the Supplemental Register in an application based on §1(a) or §44, 15 U.S.C. §1051(a) or §1126, or prior to acceptance of the statement of use in an intent-to-use application based on §1(b).

Under 37 C.F.R. §3.85, a new owner bears the burden of recording *and* notifying appropriate USPTO personnel of assignments or changes of name to ensure that the registration issues in the name of the new owner, as necessary. However, for some documents recorded on or after November 2, 2003, recording a document with the Assignment Recordation Branch will automatically update ownership in the Trademark database even if the new owner does not notify the Trademark Operation that the document has been recorded.

See [TMEP §§504](#) and [504.01](#) regarding the circumstances in which the Trademark database will be automatically updated. Thus, if the recorded document does not meet the criteria for automatic updating set forth in [TMEP §§504](#) and [504.01](#), or if there is insufficient time for the Assignment Recordation Branch to process a recently recorded document for automatic updating (*see* [TMEP §504.02](#)), the new owner must file a written request that the certificate issue in the name of the new owner. The new owner can search the Assignment Recordation Branch's database, i.e., the Electronic Trademark Assignment System ("ETAS"), at USPTO [Assignments on the Web](#) to determine whether the assignment has been recorded, and can check TSDR at <http://tsdr.uspto.gov/> to determine whether the Trademark database has been updated to reflect the change of ownership. A request that a registration issue in a new name should be directed to the examining attorney, and should state that the appropriate document has been recorded (or filed for recordation) and that the applicant wants the registration to issue in the name of the assignee or the new name of the applicant.

The request should specify the assignee's address and set forth the assignee's citizenship or state of incorporation or organization (for United States assignees), or country of incorporation or organization (for foreign assignees). If the assignee is a domestic partnership or domestic joint venture, the request should set forth the names, legal entities, and national citizenship (or the state or country of organization) of all

general partners or active members. See [TMEP §502.02\(c\)](#) regarding an examining attorney's handling of an application in which the mark has been assigned.

If the applicant states that a request to record a change of ownership has been filed with the Assignment Recordation Branch but is not yet recorded, and the application is in condition to be approved for publication or registration on the Supplemental Register, the examining attorney should suspend action pending recordation of the document and entry of the information into the Trademark database. See [TMEP §§716](#) *et seq.* regarding suspension.

Clear Chain of Title Required. A request that a registration issue in the name of a new owner will not be granted unless documents recorded in the Assignment Recordation Branch show clear chain of title from the original applicant to the new owner. The examining attorney should check the Assignment Recordation Branch's database ("Assignment database") on the USPTO website at [Assignments on the Web](#) to ensure that there is clear chain of title. If the Assignment database shows clear chain of title, the examining attorney should ensure that the Trademark database is updated, if necessary.

Example: ABC Corporation owns Application 1. ABC Corporation files an assignment of the entire interest and goodwill of the business, transferring ownership of Application 1 to DEF Incorporated. DEF Incorporated later files an assignment of the entire interest and goodwill of the business transferring ownership of Application 1 to XYZ Corporation. The Assignment database shows clear chain of title from ABC Corporation to DEF Incorporated to XYZ Corporation.

If the Assignment database does not show clear chain of title, the examining attorney must not update the Trademark database. If it is necessary to issue an Office action regarding other outstanding issues, the examining attorney should advise the applicant that it must record the necessary documents if it wants the registration to issue in the name of the new owner. If it is not otherwise necessary to issue an Office action, the examining attorney should enter a Note to the File in the record indicating that the Trademark database cannot be updated because there is no clear chain of title in the new owner. If the applicant does not record the necessary documents to show clear chain of title in the new owner, the registration will issue in the name of the party who has clear chain of title according to the Assignment database.

Time for Recordation and Filing of Request for Issuance in Name of New Owner. To ensure that the registration issues in the name of the new owner, the new owner should record the assignment before the mark is approved for publication or registration on the Supplemental Register in an application based on §1(a) or §44, or prior to acceptance of a statement of use in an application based on §1(b). The USPTO cannot ensure that a request to issue the certificate in a new name filed after the mark has been approved for publication or registration will be processed in time for the registration to issue in the name of the new owner.

If, before a mark is approved for publication or registration, an applicant has recorded the appropriate document and filed a proper request that the certificate issue in the name of the new owner, but the registration does not issue in the name of the new owner, the USPTO will issue a certificate of correction. See 15 U.S.C. §1057(g), 37 C.F.R. §2.174, and [TMEP §1609.10\(a\)](#) regarding the procedures for requesting correction of

a USPTO error, and [TMEP §502.03](#) regarding issuance of a new certificate of registration to the new owner of a registered mark.

502.02(b) Applications Under §66(a) of the Trademark Act

In an application under §66(a) of the Trademark Act, a new owner must record any assignment, change of name, or other document affecting title with the IB. The document(s) must show clear chain of title from the original owner to the party who is taking the action. See [TMEP §501.07](#) regarding assignment of §66(a) applications, and [TMEP §§1906.01](#) and [1906.01\(a\)](#) regarding requests to record changes with the IB. The IB will notify the USPTO when the change of ownership, including change of owner name, is recorded in the International Register. The USPTO will record only those assignments (or other documents affecting title) that have been recorded in the International Register, and will automatically update the “Ownership” field in the Trademark database. A new owner can check TSDR at <http://tsdr.uspto.gov/> to determine whether the Trademark database has been updated to reflect a change in ownership that has been recorded with the IB.

If the Trademark database has not been updated, before the mark is approved for publication the new owner should file a written request that the registration issue in the name of the new owner. The request that a registration issue in the name of the new owner should be directed to the examining attorney, and should state that the appropriate document has been recorded (or filed for recordation) with the IB, and that the applicant wants the registration to issue in the name of the assignee or the new name of the applicant. The request should specify the assignee’s address, and set forth the assignee’s citizenship or state of incorporation or organization (for United States assignees), or country of incorporation or organization (for foreign assignees). If the assignee is a domestic partnership or domestic joint venture, the request should set forth the names, legal entities, and national citizenship (or state or country of organization or incorporation) of all general partners. See [TMEP §502.02\(c\)](#) regarding an examining attorney’s handling of an application after a mark has been assigned.

If the applicant states that a request to record a change of ownership has been filed with the IB but is not yet recorded, and the application is in condition to be approved for publication, the examining attorney should suspend action pending recordation of the document and entry of the information into the Trademark database. See [TMEP §§716 et seq.](#) regarding suspension.

If, before a mark is approved for publication, an applicant has recorded the appropriate document with the IB and filed a proper request that the certificate issue in the name of the new owner, but the registration does not issue in the name of the new owner, the USPTO will issue a certificate of correction. See 15 U.S.C. §1057(g), 37 C.F.R. §2.174, and [TMEP §1609.10\(a\)](#) regarding the procedures for requesting correction of a USPTO error.

502.02(c) Examining Attorney’s Action Regarding Assignment

If, prior to approval for publication for opposition or registration on the Supplemental Register, or prior to acceptance of a statement of use in an application under §1(b), the applicant advises the examining attorney, or the examining attorney learns through another source, that an assignment has been recorded, the examining attorney should check the Assignment database at [Assignments on the Web](#) to ensure that there is clear chain of title, and should ensure that the Trademark database is updated before approving the mark for publication or registration.

In general, the examining attorney should only issue an Office action questioning whether an assignment has occurred if an entity attempts to take action with respect to the application and USPTO records show ownership in another party. In this situation, the assignee must establish entitlement to take the action, either by recordation of an assignment or submission of proof of the assignment. 37 C.F.R. §3.73(b); [TMEP §502.01](#).

During initial examination, the examining attorney should not suspend action or delay issuance of a final action to await recordation of a document. However, if the applicant submits a request indicating that the relevant document *has been submitted for recordation* and the application is in condition to be approved for publication for opposition or registration on the Supplemental Register, the examining attorney should suspend the application until the document has been recorded and the information regarding the assignment or the change of name has been entered into the Trademark database.

Similarly, during examination of the statement of use in an application under §1(b), the examining attorney should withhold final approval for registration until the relevant document has been recorded and the information regarding the assignment or the applicant's new name has been entered in the Trademark database. If the application is in condition to be approved for publication or registration, the examining attorney should suspend action pending recordation of the document and entry of the information into the Trademark database. See [TMEP §§716](#) *et seq.* regarding suspension.

502.03 Issuance of New Certificate to Assignee of Registrant

Registrations Under §§ 1 and 44 of the Trademark Act. In registrations that issued based on applications under §1 or §44 of the Trademark Act, the USPTO will issue a new certificate of registration of the mark for the unexpired part of the registration period in the name of the new owner (or in the registrant's new name), if the new owner/registrant: (1) records the appropriate document (e.g., assignment document, change of name) with the Assignment Recordation Branch; (2) files a written request that a certificate of registration be issued in the new owner's name; *and* (3) pays the required fee (37 C.F.R. §§2.6(a)(8) and 3.41). The new owner, someone with legal authority to bind the new owner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under 37 C.F.R. §11.14 ("qualified practitioner") must sign the request for a new certificate. 15 U.S.C. §1057(d); 37 C.F.R. §§2.171(a) and 3.85. The recorded document(s) must show clear chain of title from the original registrant to the party requesting issuance of a new certificate. See [TMEP §§503.03](#) *et seq.* regarding the requirements for recording.

Upon request and payment of the appropriate fee (*see* [TMEP §111](#)), the Document Services Branch of the USPTO will provide a certified copy of the registration that reflects ownership according to the records shown in the Assignment database. The certified copy will not show any transfer of ownership that has not been recorded with the Assignment Recordation Branch.

See [TMEP §1604.07\(c\)](#) regarding the issuance of a notification of acceptance of a §8 affidavit in the name of the new owner of a registration, and [TMEP §1606.06](#) regarding renewal in the name of the new owner.

Registered Extensions of Protection of International Registrations to the United States. In a registered extension of protection, the new owner must record the assignment, change of name, or other document affecting title with the IB. *See* [TMEP §501.07](#) regarding assignment of registered extensions of protection, and [TMEP §§1906.01](#) and [1906.01\(a\)](#) regarding requests to record changes in the International Register. The IB will notify the USPTO when the change of ownership, including a change of owner name, is recorded in the International Register, and the USPTO will record the change in the Assignment database and update the "Ownership" field in the Trademark database. The USPTO will record only those assignments (or other

documents affecting title) that have been recorded in the International Register. The recorded document(s) must show clear chain of title from the original owner to the party requesting issuance of a new certificate.

The USPTO will issue a new certificate of registration of the mark for the unexpired part of the registration period in the name of the new owner, if the new owner: (1) records the appropriate document (e.g., assignment document, change of name certificate) with the IB; (2) files a written request with the Assignment Recordation Branch that a certificate of registration be issued in the new owner's name; *and* (3) pays the required fee (37 C.F.R. §2.6(a)(8)). The new owner, someone with legal authority to bind the new owner (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner must sign the request for a new certificate. 15 U.S.C. §1057(d); 37 C.F.R. §2.171(a).

Upon request and payment of the appropriate fee (*see* [TMEP §111](#)), the Document Services Branch of the USPTO will provide a certified copy of the registration that reflects ownership according to the records shown in the Assignment database. The certified copy will not show any transfer of ownership that has not been recorded with the IB.

Section 10 of the Trademark Act and 37 C.F.R. Part 3 do not apply to assignments of an international registration. 37 C.F.R. §7.22.

503 Recording with Assignment Recordation Branch

503.01 Effect of Recording a Document

37 CFR §3.54 Effect of recording.

The recording of a document pursuant to §3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

503.01(a) Recording May Not Update Ownership Information

Recording a document with the Assignment Recordation Branch does not necessarily change or update the ownership of record shown in the Trademark database. There are circumstances in which the Trademark database will be updated automatically upon the recordation of an assignment, change of name, or other document transferring title. *See* [TMEP §§504](#) and [504.01](#). In all other cases, the new owner must separately notify the Trademark Operation in writing of the recordation of a document, and request that the Trademark database be updated manually. *See* [TMEP §§504.01](#) and [505](#). *See also* [TMEP §§502.02 et seq.](#) and [502.03](#) regarding issuance of a certificate of registration in the name of a new owner.

503.01(b) Recording Does Not Update Correspondence Address in Trademark Database

The USPTO will only communicate with the applicant or the applicant's attorney at the correspondence address listed in the Trademark database. If an assignment document is recorded with the Assignment Recordation Branch and it includes a new correspondence address, the USPTO will not enter the change of correspondence address or update the Trademark database. The mere inclusion of the new correspondence address on documents filed with the Assignment Recordation Branch does not effect a change in the correspondence address in the Trademark database, even if the ownership information is automatically updated. The USPTO will not change the correspondence address unless a separate written request is made to explicitly change the correspondence address. *See* [TMEP §609.02\(f\)](#) regarding correspondence after recordation of a change of ownership, and [TMEP §§504 et seq.](#) regarding automatic updating of ownership

information in the Trademark database after recordation of a document with the Assignment Recordation Branch.

503.01(c) Recording Is Not a Determination of Validity

The Assignment Recordation Branch does not examine the substance of documents submitted for recording. The act of recording a document is a ministerial act, and not a determination of the document's validity or of its effect on title to an application or registration. The USPTO will determine the effect of a document only when an assignee attempts to take an action in connection with an application or registration (e.g., when an assignee files a statement of use under 15 U.S.C. § 1051(d)(1) or a § 8 affidavit). 37 C.F.R. § 3.54.

503.01(d) Recording Does Not Constitute Response to Office Action

Recording a document with the Assignment Recordation Branch does *not* constitute a response to an outstanding Office action.

503.01(e) Conditional Assignment

If an assignment is conditional on a given act or event at the time of its execution, the USPTO will view the submission of the assignment for recordation as an indication that the act or event has occurred. *See* 37 C.F.R. § 3.56.

503.02 Documents that the Office Will Record

37 CFR §3.11 Documents which will be recorded.

(a) Assignments of applications, patents, and registrations, accompanied by completed cover sheets as specified in §§3.28 and 3.31, will be recorded in the Office. Other documents, accompanied by completed cover sheets as specified in §§3.28 and 3.31, affecting title to applications, patents, or registrations, will be recorded as provided in this part or at the discretion of the Director.

(b) Executive Order 9424 of February 18, 1944 (9 FR 1959, 3 CFR 1943-1948 Comp., p. 303) requires the several departments and other executive agencies of the Government, including Government-owned or Government-controlled corporations, to forward promptly to the Director for recording all licenses, assignments, or other interests of the Government in or under patents or patent applications. Assignments and other documents affecting title to patents or patent applications and documents not affecting title to patents or patent applications required by Executive Order 9424 to be filed will be recorded as provided in this part.

The USPTO records assignments of trademark applications and registrations, accompanied by completed cover sheets. The USPTO also records documents that affect title to a trademark application or registration, such as certificates issued by appropriate authorities showing a change of name of a business or a merger of businesses. Although a mere change of name does not constitute a change of legal entity, it is a proper link in the chain of title. Documents of merger are also proper links in the chain of title.

Some instruments that relate to registered marks or to marks in pending applications may be recorded, even though they do not constitute a transfer or change of title to the mark or do not convey the entire title or interest in the business in which the mark is used. Typically, these instruments are license agreements, security agreements, and agreements between parties limiting future extension of use of a mark with regard to the goods/services or other circumstances of use. These instruments are recorded to give third parties notification of equitable interests or other matters relevant to the ownership of a mark.

The USPTO may also record a partial assignment of an interest in a mark. *See* [TMEP §501.06](#).

In an application under §66 of the Trademark Act or a registered extension of protection, the new owner must record any change of ownership, including a change of owner name, with the IB, who will record the change in the International Register and notify the USPTO accordingly. The USPTO will record only those assignments (or other documents affecting title) that have been recorded in the International Register. See [TMEP §§1906.01](#) and [1906.01\(a\)](#) for information about recording changes of ownership of international registrations with the IB. Section 10 of the Trademark Act and 37 C.F.R. Part 3 do not apply to assignments of §66(a) applications and registered extensions of protection. 37 C.F.R. §7.22. See [TMEP §501.07](#).

503.03 Requirements for Recording

503.03(a) Formal Requirements for Documents

Applications and Registrations Based on §§1 and 44 of the Trademark Act. All documents submitted for recording must be accompanied by a cover sheet that meets the requirements of 37 C.F.R. §3.31. See [TMEP §503.03\(e\)](#).

To expedite recordation, new owners are encouraged to file requests for recordation electronically through ETAS, on the USPTO website at <http://etas.uspto.gov>. Documents filed electronically are recorded much faster than paper documents. Using ETAS, a party can create and submit a Trademark Assignment Recordation Form Cover Sheet by completing an online form, and attach the supporting legal documentation as an image in tagged image file format (“TIFF”) for submission via the Internet.

See [TMEP §§503.03\(b\)](#) *et seq.* regarding the requirements for recordation.

Section 66(a) Applications and Registered Extensions of Protection. In a §66(a) application or a registered extension of protection, the new owner must record the change of ownership, including a change of owner name, with the IB, who will record the change in the International Register and notify the USPTO accordingly.

See [TMEP §501.07](#). The IB does not require supporting documents. See [TMEP §§1906.01](#) and [1906.01\(a\)](#) for information about recording changes of ownership of international registrations with the IB.

503.03(b) Supporting Documents

To record an assignment document or other document affecting title to a trademark application or registration, a legible cover sheet and one of the following must be submitted:

- (1) A copy of the document;
- (2) A copy of an extract from the document evidencing the effect on title; or
- (3) A statement signed by both the party conveying the interest *and* the party receiving the interest explaining how the conveyance affects title.

37 C.F.R. §3.25(a).

To record a name change, only a legible cover sheet is required. 37 C.F.R. §3.25(b).

Documents filed through ETAS must be in TIFF format. When printed to a paper size of either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), a 2.5 cm (one-inch) margin must be present on all sides. 37 C.F.R. §3.25(c)(1).

All paper documents submitted for recordation must be submitted on white and non-shiny paper that is either 8½ by 11 inches (21.6 by 27.9 cm) or DIN size A4 (21.0 by 29.7 cm) with a one-inch (2.5 cm) margin on all sides in either case. Only one side of each page may be used. Original documents should not be submitted, because the USPTO does not return recorded documents. 37 C.F.R. §3.25(c)(2).

Documents that do not meet these requirements will not be recorded. 37 C.F.R. §3.51. See [TMEP §503.05](#).

503.03(c) English Language Requirement

The USPTO will not record a document that is not in the English language, unless it is accompanied by an English translation that is signed by the translator. 37 C.F.R. §3.26.

503.03(d) Fee for Recording

All requests to record documents with the Assignment Recordation Branch must be accompanied by the appropriate fee. A fee is required for *each* application and registration against which a document is recorded, as identified in the cover sheet. 37 C.F.R. §§2.6 and 3.41. The fee does not depend on the length of the document.

If the Assignment Recordation Branch determines that materials submitted for recording do not meet the recording requirements, the fee is not refunded.

503.03(e) Cover Sheet

Each document submitted for recording in the Assignment Recordation Branch must be accompanied by a cover sheet that meets the requirements of 37 C.F.R. §3.31. Only one set of documents and cover sheets to be recorded should be filed. 37 C.F.R. §3.28.

To expedite recordation, new owners are encouraged to file requests for recordation electronically through ETAS, on the USPTO website, at <http://etas.uspto.gov>. Documents filed electronically are recorded much faster than paper documents. Using ETAS, a new owner can create a Trademark Assignment Recordation Form Cover Sheet by completing an online form, and attach the supporting legal documentation as a TIFF image for submission via the Internet.

If the new owner files the assignment or name change on paper, the cover sheet must be legible. 37 C.F.R. §3.25(a). The USPTO has a trademark cover sheet form that can be downloaded from the USPTO website at <http://www.uspto.gov/web/forms/pto1594.pdf>. Questions regarding cover sheets should be directed to the Assignment Recordation Branch. Contact information is provided on the USPTO website at <http://etas.uspto.gov/>. See notice at 1140 TMOG 65, 69 (July 28, 1992). Use of the USPTO's cover sheet form is preferred, but is not mandatory.

Under 37 C.F.R. §3.31, a trademark cover sheet must contain the following:

- The name of the party conveying the interest;
- The name and address of the party receiving the interest;
- The entity (e.g., individual, corporation, partnership, etc.) and citizenship of the party receiving the interest (e.g., the citizenship of an individual, the state or country of incorporation or organization of a corporation, etc.). If the party receiving the interest is a domestic partnership or domestic joint

venture, the names, entity, and citizenship (or the state or country of organization or incorporation) of all general partners or active members that compose the partnership or joint venture;

A description of the interest conveyed or transaction to be recorded (e.g., assignment, license, change of name, merger, security agreement);

Each application serial number or registration number against which the document is to be recorded, if known. If the application serial number is not known, the party seeking to record the document must submit a copy of the application and/or a reproduction of the mark and an estimate of the date that the USPTO received the application;

The name and address of the party to whom correspondence concerning the request to record the document should be sent;

The date the document was executed; and

The signature of the party submitting the document. For a document filed electronically, the person who signs the cover sheet must either: (1) place a symbol comprised of letters, numbers, and/or punctuation marks between forward slash marks (e.g., “/Thomas O’Malley/”) in the signature block on the electronic submission; or (2) sign the cover sheet using another form of electronic signature specified by the Director.

The cover sheet should also include:

The entity and citizenship of the conveying party (e.g., the citizenship of an individual, state or country of incorporation or organization of a corporation, or names and citizenship of the general partners of a domestic partnership);

The number of applications and/or registrations identified in the cover sheet;

The total fee; and

An identification or description of the mark.

In addition, if the receiving party has designated a domestic representative (see [TMEP §§501.04](#) and [610](#)), the cover sheet should include an indication to this effect.

Documents that are not accompanied by a completed cover sheet will not be recorded. 37 C.F.R. §3.51.

Separate patent and trademark cover sheets should be submitted for documents that include interests in, or transactions involving, both patents and trademarks. If a cover sheet contains both patent and trademark information, any information contained therein about pending patent applications will become public record upon recordation. 37 C.F.R. §§3.28 and 3.31(b).

503.04 Address for Submitting Documents for Recording

To expedite recordation, new owners are encouraged to file requests to record documents with the Assignment Recordation Branch electronically through ETAS, on the USPTO website, at <http://etas.uspto.gov>. Paper documents and cover sheets to be recorded in the Assignment Recordation Branch should be sent to Mail Stop Assignment Recordation Services, Director of the United States Patent and Trademark Office, P. O. Box 1450, Alexandria VA 22313-1450. 37 C.F.R. §§2.190(c) and 3.27.

503.05 Recording Procedure and Recordation Date

Applications and Registrations Under §§1 and 44 of the Trademark Act. The recording of documents in the Assignment Recordation Branch of the USPTO is governed by 37 C.F.R. Part 3.

To expedite recordation, new owners are encouraged to file requests for recordation electronically through ETAS, on the USPTO website, at <http://etas.uspto.gov>. Using ETAS, a new owner can create and submit a Trademark Assignment Recordation Form Cover Sheet by completing an online form, and attach the supporting legal documentation as a TIFF image for submission via the Internet. Documents filed electronically are recorded much faster than paper documents.

The date of recordation is the date that the USPTO receives a cover sheet that meets the requirements of 37 C.F.R. §3.31 and a document affecting title that meets the requirements of 37 C.F.R. §3.25. *See* 37 C.F.R. §3.51.

The party recording the document should carefully review the document and cover sheet for accuracy and completeness. The USPTO only examines the materials submitted for form, to determine whether the requirements for recording (*see* [TMEP §§503.03](#) *et seq.*) have been met.

If the materials submitted meet the requirements for recordation, the Assignment Recordation Branch will record the document and cover sheet. Only the data specified on the cover sheet will be entered in the Assignment database. After recording the document and cover sheet, the USPTO will issue a notice of recordation that reflects the data as recorded in the Assignment database. The party recording the document should carefully review the notice of recordation. *See* [TMEP §§503.06](#) *et seq.* regarding correction of errors in a cover sheet or recorded document.

Under 37 C.F.R. §3.51, the USPTO will return documents that do not meet the requirements for recording (e.g., documents submitted without a completed cover sheet, the appropriate fee, or an English translation, where applicable) to the sender for correction. The returned documents, stamped with the original date of receipt in the USPTO, will be accompanied by a notice of non-recordation indicating that, if the returned documents are corrected and resubmitted to the USPTO within a specified period of time, the USPTO will assign the original filing date of the documents as the recordation date. The USPTO will not extend the time period specified in the letter. If the returned documents are corrected and resubmitted *after* the time specified in the letter, the recordation date is the date on which the USPTO receives corrected documents that meet the requirements for recording. The certificate of mailing and transmission procedures of 37 C.F.R. §2.197 and the Priority Mail Express® procedure of 37 C.F.R. §2.198 may be used for resubmitting the returned documents, to avoid lateness due to mail delay.

If documents submitted for recording are returned unrecorded by the Assignment Recordation Branch, and the submitter believes that the documents were returned in error, he or she may file a petition to the Director under 37 C.F.R. §2.146. *See* [TMEP §§1702](#) through [1708](#) regarding petitions.

Applicants and registrants can search the Assignment database at [Assignments on the Web](#) to determine whether an assignment has been recorded.

Section 66(a) Applications and Registered Extensions of Protection. In an application under §66(a) of the Trademark Act or a registered extension of protection, the IB will notify the USPTO of any changes in ownership, including a change of owner name, recorded in the International Register, and of the date of recordation. The USPTO will record only those assignments (or other documents affecting title) that have been recorded in the International Register. *See* [TMEP §501.07](#) for further information about assignment of §66(a) applications and registered extensions of protection, and [TMEP §§1906.01](#) and [1906.01\(a\)](#) for information about recording changes of ownership of international registrations with the IB.

Section 10 of the Trademark Act and 37 C.F.R. Part 3 do not apply to assignments of an international registration. 37 C.F.R. §7.22.

503.06 Correction of Errors in Cover Sheet or Recorded Document

37 CFR §3.34 Correction of cover sheet errors.

(a) An error in a cover sheet recorded pursuant to §3.11 will be corrected only if:

- (1) The error is apparent when the cover sheet is compared with the recorded document to which it pertains, and
- (2) A corrected cover sheet is filed for recordation.

(b) The corrected cover sheet must be accompanied by a copy of the document originally submitted for recording and by the recording fee as set forth in §3.41.

Once a document is recorded with the Assignment Recordation Branch, the Assignment Recordation Branch will not remove the document from the record relating to that application or registration. See [TMEP §503.06\(e\)](#).

During the recording process, the Assignment Recordation Branch will check to see that a trademark cover sheet is complete and record the data exactly as it appears on the cover sheet. Once the document is recorded, the USPTO will issue a notice of recordation.

The party recording the document should carefully review the notice of recordation.

Typographical errors made by the USPTO will be corrected promptly and without charge upon written request directed to the Assignment Recordation Branch. For any other error, the party recording the document is responsible for filing the documents and paying the recordation fees necessary to correct the error, using the procedures set forth in [TMEP §§503.06\(a\)](#) through [503.06\(d\)](#).

In an application under §66(a) of the Trademark Act or a registered extension of protection, any request to correct an error in a document recorded with the IB must be corrected at the IB. Such a request cannot be sent to the IB through the USPTO. See [TMEP §§1906.01](#) *et seq.* for information about requests to record changes in the International Register.

503.06(a) Typographical Errors in Cover Sheet

A party may correct typographical errors on a previously recorded cover sheet by submitting the following to the Assignment Recordation Branch: (1) a completed new cover sheet containing the correct information; (2) a copy of the originally recorded assignment document (or other document affecting title); (3) a copy of the previously recorded, original cover sheet containing the erroneous information; and (4) the required fee for each application or registration to be corrected (37 C.F.R. §§2.6 and 3.41). 37 C.F.R. §3.34. See [TMEP §503.03\(e\)](#) for information about the cover sheet. The original cover sheet is required for the Assignment Recordation Branch to identify the nature of the correction. A copy of the original cover sheet may be obtained using [Assignments on the Web](#) on the USPTO website by typing in the reel and frame number of the previously recorded assignment, clicking on the “View Recorded Assignment” icon, and printing a copy of the cover sheet.

If the corrective documents are filed electronically via ETAS, the party filing the correction should check the box titled “Corrective Assignment” in the “Nature of the Conveyance” field and fill in the mandatory fields, which include: (1) identification of the parts of the cover sheet that need to be corrected (i.e., name of receiving party, or trademark application serial number or registration number); (2) the reel and frame

number where the original cover sheet is recorded; and (3) identification of the nature of the conveyance that was originally recorded (e.g., assignment of entire interest, security interest, name change, or merger).

If the corrective documents are filed on paper using the form provided by the Assignment Recordation Branch, the party filing the correction should check the box titled “Other” in the section titled “Nature of Conveyance” and, in the space provided, state the following: “Corrective assignment to correct the previously recorded assignment against Property Number ^ (insert trademark application serial number or registration number) recorded at ^ (identify the reel and frame number where the original cover sheet is recorded).”

The Assignment Recordation Branch will compare the new cover sheet containing the corrected information with the original cover sheet and the originally recorded assignment document (or other document affecting title) to determine whether the correction is typographical in nature. If the error is typographical in nature, the Assignment Recordation Branch will record the new cover sheet and correct the Assignment database. If the assignment document (or other document affecting title) cannot be recorded, the Assignment Recordation Branch will issue a notice indicating the reason for non-recordation.

If ownership information is incorrect in the USPTO’s Trademark database, see [TMEP §§505–505.02](#) regarding requests to update ownership information in applications and registrations.

503.06(a)(i) Typographical Errors in Cover Sheet that Do Not Affect Title to Application or Registration

If the original cover sheet contains a typographical error that does not affect title to the application or registration against which the original assignment, name change, or other interest is recorded, the Assignment Recordation Branch will correct the Assignment database and permit the recording party to keep the original date of recordation.

503.06(a)(ii) Typographical Errors in Cover Sheet that Do Affect Title to Application or Registration

If the original cover sheet contains a typographical error that affects title to the application or registration against which the assignment, name change, or other interest is recorded, the recording party will not be entitled to keep the original date of recordation. See [TMEP §503.05](#). Rather, the Assignment Recordation Branch will correct its automated records and change the date of recordation to the date on which the corrected cover sheet was received in the USPTO.

503.06(b) Typographical Errors in Recorded Assignment Document

If there is a typographical error in the recorded assignment document (or other document affecting title) rather than in the cover sheet, the party responsible for the erroneous document (e.g., the assignor) must either record a new document with the Assignment Recordation Branch or make corrections to the original document and re-record it. If the assignor is not available to correct an original document or execute a new one, the assignee may submit an affidavit or declaration for recordation in which the assignee identifies the error and requests correction. The affidavit or declaration must: (1) be signed by someone with firsthand knowledge of the facts and (2) identify the current owner of the property and explain why the originally recorded document was erroneous. To record the affidavit or declaration, the assignee must file: (1) a new complete cover sheet; (2) the affidavit or declaration; (3) a copy of the originally recorded document with the corrections thereto initialed and dated by the party signing the affidavit or declaration; and (4) the required fee for each application or registration to be corrected (37 C.F.R. §§2.6 and 3.41). See *In re Abacab Int’l*

Computers Ltd., 21 USPQ2d 1078 (Comm’r Pats. 1987). See [TMEP §503.03\(e\)](#) for information about the cover sheet.

In an application under §66(a) of the Trademark Act or a registered extension of protection, any request to correct an error in a document recorded with the IB must be corrected at the IB. Such a request cannot be sent to the IB through the USPTO.

503.06(c) Assignment, Change of Name, or Other Interest Improperly Filed and Recorded by Another Person Against Owner’s Application or Registration

When the owner of an application or registration discovers that another party has improperly recorded an assignment, name change, or other interest against the owner’s application or registration, the owner should initially contact the party who filed the improper recording and have that party record corrective documents. See [TMEP §503.06\(a\)](#) regarding typographical errors in the cover sheet. If that party files corrective documents, the Assignment Recordation Branch will record the assignment, change of name, or other interest in the correct application or registration, and remove any references to the application or registration in which the improper recording was made. The assignment, change of name, or other interest will remain at the reel and frame number where it was originally recorded, but a search of the assignment records will not associate the improper recording with the owner’s property.

If the party who recorded the improper document cannot be located or is unwilling to file corrective documents, the owner must file documents to correct the record. Depending on the nature of the error that resulted in the improper recordation, the owner has two options.

If the existing evidence of record clearly demonstrates that the improper assignment, change of name, or other interest recorded against the owner’s application or registration (“owner’s property”) was the result of a typographical error in identifying the application or registration number (e.g., the party who improperly filed mistakenly transposed property numbers), and the improper recording was filed by someone who is not the owner and does not have proper chain of title, the owner may submit a request to the Office of the Deputy Commissioner for Trademark Examination Policy to have any reference of the improper recording removed from the owner’s property. The owner must submit the request in writing, detailing the erroneous information and providing the reel and frame number where the document is recorded, and ask that the recording not be associated with the owner’s property. The request should be faxed to 571-273-8950. The request will only be granted if the current assignment records show on their face that a typographical error caused the recordation against the wrong property and the error was made by someone other than the owner. The request will not be granted if there is a dispute regarding ownership.

If the record as a whole shows that the application or registration number is consistent with the identified mark and nothing on the face of the recorded document indicates there was an error in identifying the application or registration number, the owner may record corrective documents with the Assignment Recordation Branch. A corrective assignment, name change, or other interest must include: (1) a new complete cover sheet containing the correct owner information; (2) an affidavit or declaration identifying the correct owner, stating why the previously recorded document was not proper, and providing the reel and frame number where the original cover sheet and underlying document is recorded; and (3) the required fee for each application or registration to be corrected (37 C.F.R. §§2.6 and 3.41). See [TMEP §503.03\(e\)](#) for information about the cover sheet.

The affidavit or declaration must: (1) be signed by someone with firsthand knowledge of the facts; (2) identify the current owner of the application or registration; and (3) state why the document recorded against

the application or registration was erroneous, and that the last correct owner or assignee has been and continues to be the owner of the application or registration.

If corrective documents are filed electronically via ETAS, the owner should check the box titled “Corrective Assignment” in the “Nature of the Conveyance” field and fill in the following required information in the fields provided: (1) identification of the parts of the assignment or change of name that need to be corrected (e.g., name of the receiving party, or trademark application serial number or registration number); (2) the reel and frame number where the original cover sheet is recorded; and (3) identification of the nature of the conveyance that was originally recorded (e.g., assignment of entire interest, change of name). The owner should also write the name of the correct owner of the application or registration in both the assignor (name of the conveying party) and assignee (name of the receiving party) fields to make clear that ownership of the application or registration never changed and the chain of title remains in the last correct owner or assignee.

If the corrected documents are filed on paper using the form provided by the Assignment Recordation Branch, the owner should check the box titled “Other” in the section titled “Nature of Conveyance” and, in the space provided, state the following: “Corrective assignment to correct the previously recorded assignment against Property Number ^ (insert trademark application serial number or registration number) recorded at ^ (identify the reel and frame number where the original cover sheet is recorded).” The owner should also write the name of the correct owner of the application or registration in both the assignor (name of the conveying party) and assignee (name of the receiving party) fields to make clear that ownership of the application or registration never changed and the chain of title remains in the last correct owner or assignee.

Whether filed via ETAS or on paper, if all the filing requirements are met in instances where nothing on the face of the recorded document indicates that there was an error in identifying the application or registration number, the Assignment Recordation Branch will record the corrected assignment or change of name in the identified application or registration, but will not remove the improper recording. However, anyone searching and reviewing the assignment records will see the corrective documents, which clarify the chain of title.

In the rare case of a dispute in ownership where one party attempts to appropriate ownership of the application or registration by filing an assignment document (or other document affecting title), the other party’s recourse is to record an affidavit or declaration (as explained above) with the Assignment Recordation Branch in support of its position. As noted above, the USPTO’s recordation of documents purporting to affect chain of title is a purely ministerial act and is not an Office determination of the document’s validity or of its effect on title to an application or registration. *See* 37 C.F.R. §3.54; [TMEP §503.01\(c\)](#).

503.06(d) Owner Must Notify Trademark Operation of Correction

Recording a corrective document with the Assignment Recordation Branch generally does not change or update the information to be corrected in the Trademark database. The owner must also separately notify the Trademark Operation in writing that the corrective document has been recorded and identify the corrected information.

See [TMEP §504.03](#) regarding correction of the Trademark database where it has been automatically updated to show ownership of an application or registration in a party who does not have clear chain of title as

evidenced by the Assignment database, and [TMEP §§505](#) *et seq.* regarding requests to update ownership information.

503.06(e) Recorded Documents Not Removed from Assignment Records

Except in situations where typographical errors have been corrected following the procedures set forth in [TMEP §503.06\(c\)](#), once an assignment or other document is recorded against an application or registration, the Assignment Recordation Branch will not remove the document from the records relating to that application or registration in the Assignment database, even if the assignment or other document is subsequently found to be invalid.

The goal of the USPTO is to maintain a complete history of claimed interests in a mark. Since the act of recording a document is not a determination of the document's validity, maintaining a complete record of claimed interests does not preclude an owner from using a mark, or from establishing its ownership of the mark in a proper forum, such as a federal court. *In re Ratny*, 24 USPQ2d 1713 (Comm'r Pats. 1992).

503.06(f) Petitions to Correct or “Expunge” Assignment Records

To correct an error in a recorded document, the owner of an application or registration should record corrective documents with the Assignment Recordation Branch, in accordance with the procedures outlined in [TMEP §§503.06](#) through [503.06\(d\)](#).

If the Assignment Recordation Branch denies the request to correct the error, the owner may file a petition to the Director under 37 C.F.R. §2.146. See TMEP Chapter 1700 regarding petitions.

However, petitions to correct, modify, or “expunge” assignment records are rarely granted. Such petitions are granted only if the petitioner can prove that: (1) the normal corrective procedures outlined in [TMEP §§503.06](#) through [503.06\(d\)](#) will not provide the petitioner with adequate relief; and (2) the integrity of the assignment records will not be affected by granting the petition.

Even if a petition to “expunge” a document is granted with respect to a particular application or registration, the images of the recorded document remain in the records of the Assignment Recordation Branch. The USPTO will delete the links to the application or registration that was the subject of the petition, so that no information about the recorded document will appear when someone searches for that application or registration number in the Assignment database. However, the image of the document remains at the same reel and frame number, and it will still appear when that reel and frame number is viewed.

503.07 “Indexing” Against Recorded Document Not Permitted

The USPTO does not process requests for “indexing” or “cross-referencing” additional trademark registration numbers or application serial numbers against a document previously recorded in the Assignment Recordation Branch.

Therefore, even when an assignment document (or other document affecting title) has already been recorded in the Assignment Recordation Branch in connection with a trademark application or registration, a party who wants to record that document against additional applications or registrations must submit the following:

(1) A copy of the originally recorded assignment document (or other document affecting title), a copy of an extract from the recorded document evidencing the effect on title, or a statement signed by both the party conveying the interest and the party receiving the interest explaining how the conveyance affects title

(this may comprise a copy of the previously recorded documents on which the Assignment Recordation Branch has stamped the reel and frame numbers at which they are recorded);

(2) A completed cover sheet (*see* [TMEP §503.03\(e\)](#)) that includes the number of each additional registration and/or application against which recordation of the assignment document (or other document affecting title) is requested; and

(3) The appropriate recording fee (37 C.F.R. §§2.6 and 3.41).

The USPTO will assign a new date of recordation for the additional applications or registrations, update the Assignment database, and create an electronic record of the cover sheet and assignment document (or other document affecting title), which will become part of the official record. *See* notice at 1157 TMOG 12 (Dec. 7, 1993).

503.08 Accessibility of Assignment Records

The Assignment Recordation Branch of the USPTO maintains separate records for patents and trademarks. 15 U.S.C. §1060(a)(5); 37 C.F.R. §2.200(a)(1).

The public can search the trademark assignment records of the Assignment Recordation Branch on the USPTO website at <http://assignments.uspto.gov/assignments>.

Assignments of trademark applications and registrations are open to public inspection upon recordation in the Assignment Recordation Branch. *See* 37 C.F.R. §3.31(b) and [TMEP §503.03\(e\)](#) regarding the submission of separate cover sheets for documents that include interests in, or transactions involving, both patents and trademarks.

Before 1955, documents were recorded in bound volumes. The location of documents in these volumes is designated by “liber and page,” that is, by the number of the book (liber) and the number of the page in the book. Since 1955, documents have been recorded on microfilm, and are available for immediate inspection in the Trademark Assignment Search Room. The location of these documents is designated by “reel and frame,” that is, by the number of the reel on which they are microfilmed and the number of the frame on the reel.

All assignment records related to pre-1955 trademark records were transferred to the National Archives and Records Administration (“NARA”) in 1990. The USPTO still maintains records of all trademark assignments recorded on or after January 1, 1955.

All trademark assignment records from 1837 to December 31, 1954 are maintained and available for public inspection in the National Archives Research Room located at the Washington National Records Center Building, 4205 Suitland Road, Suitland, Maryland 20746. Assignments recorded before 1837 are maintained at the National Archives and Records Administration, 841 South Pickett Street, Alexandria, Virginia 22304.

Copies of assignment records recorded on or after January 1, 1955 may be ordered from the USPTO upon payment of the fee required by 37 C.F.R. §2.6. An order for a copy of an assignment record should identify the reel and frame at which it is recorded in the Assignment Recordation Branch. If the correct reel and frame numbers are not identified (e.g., the order identifies the document only by the name of the registrant and the number of the registration, or by the name of the applicant and the serial number of the application), the USPTO will charge an additional fee for the time spent searching for the document.

Requests for copies of pre-1955 trademark assignment records should be directed to NARA. Payment of the fees required by NARA should accompany all requests for copies. 37 C.F.R. §2.200(a)(2).

503.08(a) Trademark Assignment Abstracts of Title

Members of the public may obtain trademark assignment abstracts of title to particular registrations or applications from the Document Services Branch of the Public Records Division of the USPTO, upon payment of the fee required by 37 C.F.R. §2.6. *See* notices at 1140 TMOG 65, 66 (July 28, 1992) and 1165 TMOG 13 (Aug. 2, 1994).

504 Automatic Updating of Ownership of Trademark Applications and Registrations in Trademark Database

Prior to November 2, 2003, recording a document with the Assignment Recordation Branch of the USPTO did not automatically change the ownership record in the Trademark database. To change the ownership record in the Trademark database, a new owner had to notify the Trademark Operation that ownership had changed. 37 C.F.R. §3.85.

Effective November 2, 2003, except in the limited circumstances set forth in [TMEP §504.01](#), the USPTO will automatically update the ownership information in the Trademark database of registrations and pending applications when one of the following documents is recorded with the Assignment Recordation Branch:

- Assignment of entire interest and goodwill;
- Nunc Pro Tunc Assignment of entire interest and goodwill;
- Merger; or
- Name Change.

In these situations, it is unnecessary for the new owner to notify the Trademark Operation of the change of ownership, or to file a request in a pending application that the certificate of registration issue in the name of the new owner. In all other situations, the new owner must separately notify the Trademark Operation in writing that ownership has changed in order to update the ownership information in the Trademark database.

To ensure that the Trademark database is automatically updated, the party filing the assignment, merger, or name change should identify the “Nature of the Conveyance” by checking the “Assignment,” “Merger,” or “Name Change” box in the “Nature of Conveyance” field and should not check the “Other” box.

The Trademark database will show only the last recorded owner, not the complete chain of title. The complete chain of title can be obtained from the Assignment Recordation Branch’s database on the USPTO website at [Assignments on the Web](#). The “Ownership” field in the Trademark database will be automatically updated whether or not the records of the Assignment Recordation Branch show clear chain of title transferring ownership to the last recorded owner. The Trademark database will include the reel and frame number and execution date of the recorded document, as well as a notation to “Check Assignments.” Examining attorneys must check assignment records to ensure that the owner of record in the Trademark database has clear chain of title. If there is no clear chain of title, the ownership information should be changed to the last owner with clear chain of title and a Note to the File should be entered in the record to document the change.

Trademark owners can search the [Assignment database](#) to determine whether an assignment has been recorded and can check TSDR at <http://tsdr.uspto.gov/> to determine whether the Trademark database has been updated.

Note - Filing Multiple Assignments with the Same Execution Date on the Same Date: When multiple assignments with the same execution date are filed on the same date, the ownership information in the Trademark database will not be automatically updated. See the note in [TMEP §504.01](#) for further information.

504.01 Circumstances in Which Trademark Database Will Not Be Automatically Updated

In the circumstances discussed below, the USPTO will **not** automatically update the Trademark database to show the change in ownership, even if the appropriate document is recorded in the Assignment Recordation Branch on or after November 2, 2003. In these situations, the applicant must separately notify the Trademark Operation in writing that the assignment or other title document has been recorded, and request that the Trademark database be updated to show title in the new owner. 37 C.F.R. §3.85; [TMEP §§502.02 et seq.](#) and [502.03](#). See [TMEP §505.01](#) regarding requests to update ownership information in pending applications and [TMEP § 505.02](#) regarding requests to update ownership information after registration.

(1) *Execution Date Conflicts with Previously Recorded Document.* If a previously recorded assignment, merger, change of name, security interest document, or any other recorded document for the same application or registration has an execution date that is the same as or later than the execution date of the subsequently recorded document, the Trademark database will not be automatically updated. Office personnel will have to review the assignment records and update the database manually. *Note - Filing Multiple Assignments with the Same Execution Date on the Same Date:* When requests to record multiple assignments (or other documents transferring title) with the same execution date are filed on the same date, the ownership information in the Trademark database is not automatically updated. Office personnel must manually update the ownership information after reviewing the entire chain of title to identify the proper owner. This review is done when a written request to update ownership information is filed in accordance with [TMEP §505](#). Therefore, information regarding the proper order of the multiple transfers should be included in the written request to the Trademark Operation so that proper chain of title may be determined and the ownership record updated accordingly in the Trademark database.

(2) *Blackout Period: Ownership of Pending Applications Cannot be Updated During Certain Time Periods.* The Trademark database will not be automatically updated to show a change of ownership during the following stages of the registration process:

- (a) For §§1(a) and 44 applications:

Between approval for publication and issuance of registration.

- (b) For §1(b) applications:

Between approval for publication and issuance of notice of allowance; and
Between acceptance of the statement of use and issuance of the registration.

(3) *Maximum Number of Ownership Changes.* The Trademark database will not be automatically updated if the maximum number of ownership changes permitted for the following time periods has been reached:

Prior to publication – up to nine changes of ownership.
Between publication and registration – up to nine additional changes of ownership.

In the situations described above, new owners must file a written request with the Trademark Operation, as set forth in [TMEP §505](#), to have the Trademark database updated. See [TMEP §504](#) regarding the types of assignment documents for which the USPTO will automatically update the ownership information in the Trademark database.

504.02 Processing Time for Automatic Updating

Recording a change of ownership does not simultaneously and automatically update the Trademark database with the new owner information. The process for automatically updating the Trademark database requires that the Assignment Recordation Branch: (1) record the document transferring title in the Assignment database; and (2) extract the trademark assignment information from the Assignment database and send it electronically to the Trademark Operation for automatic updating. The Assignment Recordation Branch will extract trademark assignment information from the Assignment database and transmit it to the Trademark Operation once a week.

To expedite recordation with the Assignment Recordation Branch, new owners are encouraged to file requests for recordation electronically through ETAS on the USPTO website, at <http://etas.uspto.gov>.

If a trademark owner wants the Trademark database updated within a certain time frame, and there is insufficient time for the Assignment Recordation Branch to process a recently recorded title document for automatic updating, the owner should notify the Trademark Operation in writing of the change of ownership.

37 C.F.R. §3.85; [TMEP §§502.02 et seq.](#) and [502.03](#). Trademark owners can search the Assignment Recordation Branch's database at [Assignments on the Web](#) to determine whether an assignment has been recorded, and can check TSDR at <http://tsdr.uspto.gov/> to determine whether the Trademark database has been updated.

504.03 Correction to Automatic Update - Last Recorded Owner Does Not Have Clear Chain of Title

In the situations set forth in [TMEP §504](#), the Trademark database will be automatically updated to show the last recorded owner regardless of whether the Assignment database shows that the last recorded owner has clear chain of title. If the Trademark database is automatically updated to show ownership of an application or registration in a party who does not have clear chain of title as evidenced by the Assignment database, the owner of the application or registration may file a written request to have the "Ownership" field in the Trademark database corrected. The USPTO will grant a request for correction of the "Ownership" field if:

- (1) The Trademark database was automatically updated to show ownership in a party who does not have clear chain of title according to the Assignment database; *and*
- (2) At the time the Trademark database was automatically updated in the name of the incorrect party, the Assignment database showed clear chain of title in the party requesting correction of the "Ownership" field in the Trademark database.

The correction of the Trademark database will not be automatically reflected in the Assignment database. To correct the assignment records, a party must follow the procedures set forth in [TMEP §§503.06 et seq.](#) for correcting errors in the Assignment database.

Example: ABC Corporation owns Application No. 1. An assignment of the entire interest and goodwill is filed for recordation, transferring ownership of Application 1 from ZED Corporation to XYZ Corporation. The Assignment Recordation Branch records

the assignment and transmits the trademark assignment information to the Trademark Operation. The Trademark database is automatically updated to show XYZ Corporation as the new owner of Application 1. The Trademark Operation will correct its database, upon ABC Corporation's request, because the Assignment database does not show clear chain of title from ABC Corporation to XYZ Corporation, and the Assignment database shows clear chain of title in ABC Corporation.

In all other situations, a party requesting correction of the ownership records of the Trademark Operation must follow the procedures for correcting errors in recorded documents or cover sheets, as set forth in [TMEP §§503.06 et seq.](#) That is, the party must first file corrective documents with the Assignment Recordation Branch, pay the recordation fees necessary to correct the error, and notify the Trademark Operation in writing that the corrective documents have been recorded.

Prior to registration, a request for correction of the "Ownership" field in the Trademark database should be made in an amendment directed to the examining attorney. If such a request is filed after publication, it will be handled in accordance with standard procedures for processing amendments after publication, as set forth in [TMEP §§1505.01 et seq.](#) In a §1(b) application, if a request for correction of the "Ownership" field is filed between the issuance of the notice of allowance and the submission of a statement of use, such a request may be entered during this period with the express permission of the Director, after consideration on petition under 37 C.F.R. §2.146. Alternatively, the request can be made when filing the statement of use or a request for extension of time for filing a statement of use. See 37 C.F.R. §§2.77, 2.146; [TMEP §§1107–1107.01.](#)

After registration, a request for correction of the "Ownership" field should be submitted in writing to the Post Registration Section in the form of a request for correction under §7(g) of the Trademark Act and 37 C.F.R. §2.174. See [TMEP §505.02](#) regarding proper procedures for requests to update ownership information for registrations.

504.04 Automatic Updating Does Not Apply to Requests for Recordation Filed Before November 2, 2003

The automatic updating procedures discussed in §§[504.01](#) through [504.03](#) apply to all assignments, mergers, and name changes recorded in the Assignment Recordation Branch on or after November 2, 2003, even if the request for recordation was filed before November 2, 2003.

These procedures do not apply to assignments, mergers, or name changes that were recorded in the Assignment Recordation Branch prior to November 2, 2003. For documents recorded prior to November 2, 2003, the new owner must notify the Trademark Operation in writing of the change of ownership and request that the Trademark database be updated manually. 37 C.F.R. §3.85.

504.05 Automatic Updating Does Not Apply to §66(a) Applications and Registered Extensions of Protection

The procedures discussed in §§[504.01](#) through [504.04](#) do not apply to §66(a) applications and registered extensions of protection of international registrations to the United States. Changes of ownership, including a change of owner name, of international registrations and requests for extensions of protection of international registrations to the United States must be recorded with the IB. The USPTO will record only those assignments (or other documents of title) that have been recorded in the International Register. The USPTO's Trademark database will be automatically updated to reflect any change of ownership that is recorded in the International Register. See [TMEP §501.07](#) for further information about assignment of §66(a) applications

and registered extensions of protection, and [TMEP §§1906.01](#) and [1906.01\(a\)](#) for information about recording changes of ownership of international registrations with the IB.

505 Requesting Update of Ownership Information When the Trademark Database Does Not Automatically Update After a Document is Recorded

As noted in [TMEP §504.01](#), in certain cases, the recordation of a document with the Assignment Recordation Branch does not automatically update the ownership information in the Trademark database. Therefore, the new owner must separately notify the Trademark Operation in writing that the change in ownership has been recorded, so that the ownership information is updated in the Trademark database. See [TMEP §505.01](#) regarding the procedures for requesting that ownership information be updated in pending applications, and [TMEP §505.02](#) regarding the procedures for requesting that ownership information be updated after registration.

505.01 Request to Update Ownership Information in Pending Application

Prior to registration, a request to update the ownership information in the Trademark database should be made in writing and directed to the examining attorney. To expedite processing, new owners are encouraged to file the request online using the Trademark Electronic Application System (“TEAS”), available on the USPTO website at <http://www.uspto.gov/trademarks/teas/>. To notify the Trademark Operation of a request before an application is approved for publication, the request may be submitted using the TEAS form entitled “Voluntary Amendment Not in Response to USPTO Office Action/Letter.” If such a request is filed after an application is published for opposition but before the notice of allowance or registration has issued, it may be submitted using the TEAS form entitled “Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment Form,” and will be handled in accordance with standard procedures for processing amendments after publication, as set forth in [TMEP §§1505.01](#) *et seq.*

In a §1(b) application, after issuance of the notice of allowance, if the Trademark database has not been automatically updated, the notification of the change in ownership should be made when filing the statement of use or a request for extension of time for filing a statement of use. See 37 C.F.R. §2.77; [TMEP §1107](#). To update the Trademark database prior to submitting these documents, the applicant may file a petition to the Director pursuant to Trademark Rule 2.146 to allow the change to be entered. See 37 C.F.R. §§2.77(b), 2.146 [TMEP §§1107-1107.01](#).

See [TMEP §§502.02\(a\)](#) and [\(b\)](#) regarding issuance of a certificate of registration in the name of the new owner.

505.02 Request to Update Ownership Information After Registration

If the new owner does not identify the assignment conveyance document properly (see [TMEP §504](#)), or in the situations described in [TMEP §504.01](#), the Trademark database will not automatically update to show the changes in ownership. To have the Trademark database updated, the new owner must either: (1) file a written request to amend the registration pursuant to §7(d) of the Trademark Act, 15 U.S.C. §1057(d); or (2) include the new owner information when submitting a post registration maintenance filing pursuant to §8 or §9 of the Trademark Act, 15 U.S.C. §1058 or §1059.

The TEAS form entitled “Section 7 Request for Amendment or Correction of Registration Certificate” should be used to file the request to update the ownership information in the Trademark database. See [TMEP §502.03](#) regarding issuance of a new certificate in the name of the new owner. Thus, if the new owner of

the registration is not taking a post registration action, such as filing a §8 affidavit, and wishes to update the ownership records, the owner must:

- (1) Record the appropriate document (e.g., assignment, change of name) with the Assignment Recordation Branch;
- (2) File a written request that the Trademark database be updated under §7(d), signed by the new owner, someone with legal authority to bind the new owner (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner; *and*
- (3) Pay the required fee (37 C.F.R. §§2.6(a)(8) and 3.41).

15 U.S.C. §1057(d); 37 C.F.R. §§2.171(a) and 3.85. The USPTO's Trademark records must show clear chain of title from the original registrant to the new owner. See [TMEP §502.03](#).