Trademark Operations Update

July 28, 2017

Mary Boney Denison
Commissioner for Trademarks
Continuing Resolution

- Funded through September 30, 2017.
Filings/Staffing

July 28, 2017
New Application Filings

- FY 2016: 530,270 classes filed
- Projecting 568,000 fee paid classes this fiscal year. This is an increase of 7.1% over the previous fiscal year.
# Trademark Performance: Pendency

<table>
<thead>
<tr>
<th>FY 2017 Trademark Performance Measures</th>
<th>FY 2017 Targets</th>
<th>FY 2017 June Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Action Pendency</td>
<td>2.5 – 3.5</td>
<td>2.5</td>
</tr>
<tr>
<td>First action pendency from date of filing to first office action in months.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disposal Pendency</td>
<td>12.0</td>
<td>10.1</td>
</tr>
<tr>
<td>Disposal pendency from date of filing to issuance of a notice of allowance, registration, or abandonment – excluding suspended and inter partes proceedings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Trademark Performance: Quality

<table>
<thead>
<tr>
<th>FY 2017 Trademark Performance Measures</th>
<th>FY 2017 Targets</th>
<th>FY 2017 June Results</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>First Action Compliance</strong></td>
<td>95.5%</td>
<td>97.3%</td>
</tr>
<tr>
<td>In-process review evaluation of the statutory bases for which the Office raises issues and or refuses marks for registration based on the first office action.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Final Action Compliance</strong></td>
<td>97.0%</td>
<td>98.2%</td>
</tr>
<tr>
<td>In-process review evaluation of the statutory bases for which the Office raises issues and or refuses marks for registration based on the examiner’s approval or denial of the application.</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Exceptional Office Action</strong></td>
<td>42.0%</td>
<td>45.9%</td>
</tr>
<tr>
<td>Measure indicating the comprehensive quality of the first Office action search, evidence, writing and decision making.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
E-Government Statistic

• Original goal was to have all applications submitted electronically; Currently at the 99.9% range
• Goal shifted from application to two-way electronic communication throughout the entire registration process
• Continue to encourage end-to-end electronic processing by users
• Mandatory electronic filing on the horizon for the next Fiscal Year.
E-Government

Applications Completely Processed Electronically (classes)

81.4% 81.6% 82.2% 83.6% 83.8% 84.6% 84.8% 85.6% 86.3% 86.4%

Q2-15  Q3-15  Q4-15  Q1-16  Q2-16  Q3-16  Q4-16  Q1-17  Q2-17  Q3-17
Application Filings by Type

Paper
TEAS
TEAS Plus
TEAS RF
Madrid
Fee Change Effect on Paper Applications

![Graph showing the effect of fee changes on paper applications over time. The graph indicates a peak in November 2016 at 115 applications, followed by a significant drop to 18 applications in February 2017, and a gradual increase to 33 applications in May 2017.](uspto)
Trademark Organization Staffing

- 838 Trademark employees (7% of USPTO)
- 555 examining attorneys (66% of Trademarks)
- 77% of examining attorneys telework full time
- Examining Attorney hiring completed for the fiscal year
New Examining Attorneys and Law Offices

- **Traditional:** split up new hires to fill slots in law offices already in existence
- **Training:** All new examining attorneys in one training law office; Law Offices 120, 121, 122, 123 and 125 have been created this way
- **Virtual Law Offices:** Law Offices 102, 118, 119, and 124 are virtual offices
TEAPP Pilot

• Telework Enhancement Act of 2010 allows employees to waive right to travel expenses for reasonable number of mandatory trips to USPTO. **Program set to expire December 8, 2017;** working with Congress on possible solutions
• Hoping to either make TEAPP program permanent or extend further
• It has been very successful for us. Now have 114 employees in 30 different states as part of the program
• Expansion to Puerto Rico recently (no Trademark employees yet)
Improve Customer Experience

- Hired Chief Customer Experience Administrator and two plain language writers
- Implementing Deloitte Recommendations such as: Improving website, making searching more understandable, making ID selection process easier to use and simplifying the filing process
- Regulatory Reform: [https://www.uspto.gov/about-us/uspto-working-group-regulatory-reform](https://www.uspto.gov/about-us/uspto-working-group-regulatory-reform); looking into striking some regulations
- Deputy Commissioner Marsh currently working on Regulatory Reform for Trademarks
- Formulating Customer Experience Strategic Plan for 2018-22
TSDR Improvements

• Improvements include:
  – New maintenance tab where system will tell you maintenance filing dates
  – Easier to print maintenance data
TSDR - New Maintenance Tab
EXAMPLE:

TSDR - If Mark Registered <5 Years, System Will Display 3 Dates

§8 (6 year) Affidavit of Continuing Use Due Dates:

- Earliest date §8 can be filed: Dec. 15, 2020
- Latest date §8 can be filed without paying additional fee: Dec. 15, 2021
- Latest date §8 can be filed by paying an additional fee: Jun. 15, 2022
TEAS- July Improvements

- New alert messages when payment system is unavailable
- Simplified form language for “saving form” data v. downloading portable data
- Revised declarations
- Simplified filing receipts and information on fraudulent solicitations
- Enhanced ability to update attorney and domestic representative addresses
The “Download Portable Data” button on the Validation Page has been renamed “Save Form” for clarity.
Recent Enhancements

- Merged dockets to track both applications and registrations in one “collection”
- Increased docket size to track status of up to 1000 applications/registrations in one “collection”. (Can already create as many dockets or “collections” as needed)
- The user can now specify which collections they wish to be emailed about.
- Email notifications from the Trademark Official Gazette widget. The user can now be notified when a new Trademark Official Gazette issue is published.
- Sign up at my.uspto.gov, and please provide feedback and suggestions.
The uspto.gov user account

- Users register once to set up a profile and establish the account credentials (login/password)

- Users can then sign-in using the credentials, and access all USPTO systems that have adopted the uspto.gov user accounts
  - MyUSPTO, Financial Manager, Patent Maintenance Fee storefront have already adopted the uspto.gov user accounts
  - Many more USPTO systems are moving to adopt the uspto.gov user accounts. Stay tuned!

https://account.uspto.gov
Please provide your feedback online
Recently published source code for a mobile application for trademarks
Receive a push notification anytime the status of a trademark application changes
Try it and let us know what you think
See: https://github.com/USPTO/TrademarkStatusApp
News and Initiatives

July 28, 2017
Tam Decision

• Guidance sent out in June
• Will await *Brunetti* Decision regarding how to process applications for scandalous marks
Post Registration Amendments to IDs Due to Technology Evolution

• In response to user feedback, we developed a method for users to petition our office to make technology changes due to evolution.

• Since September 1, 2015, 131 petitions have been filed. Of the 131 petitions received, 56 have been granted, 23 have been dismissed, and 29 have recently published for public comment but no decision has issued. 2 petitions have been denied.

New Rule

- Final Rule now in effect July 8, 2017 for revival of abandoned applications, reinstatement of abandoned applications and cancelled or expired registrations, and petitions to the Director in the Federal Register.
Thank you for the feedback.

Training of Examining Attorneys completed in July

Public issuance of Exam Guide will be July 31, 2017

Responses to comments received will be posted with public issuance on July 31, 2017
Proof of Use Initiative

• Pilot
  – Assess the accuracy and integrity of the Register
  – Required at random, additional specimens or other evidence in connection with a Section 8 or 71 Affidavit of Continued Use for 500 cases.
  – For more than half of the trademark registrations selected in the pilot, the owner failed to verify the actual use of the mark for the goods/services queried, despite having previously sworn to such ongoing use as part of a Section 8 or 71 affidavit filed to maintain the registration.
Integrity of Federal Register

Suggested Methods of Improvement from Post-Registration Pilot Program

- Increase Readability of Declaration
- Continue Random Audits of Registrations
- Expungement Procedures
Part I: Increased Readability of Declaration Text

Former Declaration Format

Revised Declaration Format
Part II: Random Audits Now Made Permanent

- USPTO will require submission of information, exhibits, affidavits or declarations, and such additional specimens to ensure that register accurately reflects marks are in use in United States for all goods/services identified in registrations in random pull of cases.
- New Rule in effect on March 21, 2017
- Rollout expected in the fall.
Part III: Expedited Cancellation Proceedings

• Request for comments published May 16, 2017. Comments due August 14, 2017
• Four options initially considered for now; we are moving forward on two options that do not require a statutory change
• TTAB Streamlined Cancellation Proceedings
  – 1) Abandonment
  – 2) No use as of §1(a) filing date or no use as of the filing date of an AAU/SOU for §1(b)
Fraudulent Solicitations

- Raising awareness of schemes to defraud trademark owners:
  - Each office action email notification includes a link to our [Non-USPTO Solicitations page](https://www.uspto.gov/trademarks-getting-started/non-uspto-solicitations)
  - Filing receipts now contain warning
  - With each registration, we mail a bright orange paper with the same information
  - Video on our webpage: [https://www.uspto.gov/trademarks-getting-started/non-uspto-solicitations](https://www.uspto.gov/trademarks-getting-started/non-uspto-solicitations)
  - We also have an updated list of fraudulent entities we have identified
    - Two men recently pled guilty to stealing $1.66 million from U.S. trademark applicants and registrants; a third man was convicted of money laundering and false bank entry in connection with laundering the proceeds of a trademark scam
  - **Held joint TPAC/USPTO public roundtable this Wednesday (July 26)**
  - U.S. agencies joining us at roundtable: FTC, CBP, USPIS, SBA, DOJ
Caution: misleading notices

Don’t be fooled by potentially misleading offers and notices from private companies

Some trademark applicants and registrants have paid fees to private companies, mistakenly thinking they were paying fees required by the USPTO. We do not endorse any of these private companies and you are not required to use them.

Keep reading for information on potentially misleading offers and notices—also called solicitations—and how to identify them. You can also watch our “Solicitation Alert” video below.

On this page:
- Trademark Information Network News Video: Solicitation Alert
- What is a trademark-related solicitation?
- What kinds of trademark-related services do private companies offer?
- How can I tell the difference between potentially misleading trademark offers and notices and legitimate USPTO emails and notices?
- Are the deadlines in these offers and notices accurate?
- I received a misleading trademark offer or notice. What should I do?
- Do you have any examples of potentially misleading offers or notices?

Trademark Information Network News Video: Solicitation Alert

Watch this video to learn about potentially misleading trademark offers and notices, the types of services they offer, and how to detect them.

TMIN News 10: Solicitation Alert
International

July 28, 2017
TM5 on Bad Faith TM Filings

- TM5 partners – USPTO, SAIC, EUIPO, JPO, and KIPO – continue to make efforts to minimize bad faith trademark filings by:
  (a) exchanging best practices and
  (b) working with each other to provide more transparent information to users on how the largest trademark offices combat bad faith trademark filings.
- Most recent seminars: Tokyo, March 2016 and Kunshan City, October 2016 and Barcelona, May 2017
- JPO presented their report at the mid-year meeting in Barcelona in May.
- Next meeting likely late November 2017
Common Status Descriptors

1. Mark Information
2. Basis Information (Case Level)
3. Current Owner(s) Information
4. Attorney/Correspondence Information
5. Prosecution History
6. TM Staff and Location Information
7. Assignment Abstract/Title Information - Click to Load
8. Proceedings - Click to Load

Common Status Descriptors (CSD) icons:

- (Green checkmark) - Mark Information
- (Green checkmark) - Basis Information (Case Level)
- (Green checkmark) - Current Owner(s) Information
- (Green checkmark) - Attorney/Correspondence Information
- (Green checkmark) - Prosecution History
- (Green checkmark) - TM Staff and Location Information
- (Red cross) - Assignment Abstract/Title Information - Click to Load
- (Red cross) - Proceedings - Click to Load
Outreach

July 28, 2017
Outreach

• Public outreach to small businesses and entrepreneurs regarding importance of Trademarks through 1) speaking engagements and 2) recorded instructional videos
• “Basic Facts” video over 725,000 views as of July 20, 2017
• Since the outreach program began in February 2012, at least one live program has been presented in all 50 states.
• Recent events include:
  – June 7: Darden School of Business, University of Virginia
  – June 15: Office of Innovation Development (OID) Inventor Info Chat Webinar
  – June 29: LA Times Multicultural Business Forum, Los Angeles, CA
  – July 10: Ft. Lauderdale Chamber of Commerce and Boca Raton Chamber of Commerce, FL (with Representative Deutch, Congressional Trademark Caucus)
  – July 19: Los Angeles Gay and Lesbian Chamber of Commerce, Los Angeles, CA
  – July 21: Cincinnati College of Art and Design, Cincinnati, OH
Thank You!

Mary Boney Denison
Commissioner for Trademarks
Mary.Denison@uspto.gov