

**From:** [Jon Barton](#)  
**To:** [TM FR Notices](#)  
**Subject:** Letter of Protest fees  
**Date:** Sunday, September 22, 2019 8:04:14 PM

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Hello,

I'm a small business owner and clothing designer.

I have recently read about a proposed \$100 fee for filing Letters of Protest in response to applications for Trademark.

I am writing to because I believe that charging a fee to protest a trademark disproportionately harms small business owners, especially the **20 million Sole Proprietorships** in the US that make up the backbone of the American economy. In the last several years, there has been a large influx of "Trademark Troll" Applications where Trademarks are applied (and often are granted!) trademarks for plainly descriptive or otherwise commonly used words, such as "dogs" (c.f. Application # 5843989), "busy mom" (c.f. Application #5250857), "neighborhood" (c.f. Application #5505435). The intent of these Trademark Trolls is to unfairly restrict the competition of hard working small business owners using these common words and phrases on t-shirts and the like. The Trademark Trolls frequently use a weak attempt at appearing to have a brand using the word or phrase, and their trademark goes through, **even though the word/phrase is commonly used and descriptive**, and they have no recognizable brand.

Then the Trademark Trolls send cease and desist letters to **anyone using the common word or phrase**. In nearly every case the cost of fighting the trademark holder is excessive due to the high cost of attorney fees and the Trademark Trolls know this. **This is the strategy**.

In 2017, the Supreme Court ruled against "Patent Trolls" in [TC Heartland vs. Kraft Foods](#) ([https://cdn.patentlyo.com/media/2017/05/16-341\\_8n591.pdf](https://cdn.patentlyo.com/media/2017/05/16-341_8n591.pdf)) who used similar methods to stifle innovation. Having been restricted from using 'most favorable' methods to ensure success on one front, many of the "Patent Trolls" have moved on to the "Trademark Troll" field - filing for and receiving Trademarks for common phrases, and then using those Granted Trademarks to remove competition or demand payment for the use of their Trademarked Phrase (again, these "Trademarks" are often common phrases, such as the previously referenced "dogs", "busy mom", and "neighborhood".)

Charging a fee to file a Letter of Protest against a Trademark Troll hurts the Small Businessperson who is filing a Letter of Protest to protect their livelihood from the Trademark Troll. The Letter of Protest is the only recourse that Small Business Owners have against Trademark Trolls, because the current process routinely grants Trademark Trolls the TM Application by default. Thousands of hard-working small business people who compete fairly have been using these commonly used words and phrases for years, they are losing the battle against Trademark Trolls.

I believe that filing Letters of Protest free of cost to the Filer is a necessary check and balance to prevent the artificial stifling of business competition in the US because of the sheer number of frivolous trademarks representing commonly used single words and short phrases that have been approved by the Examiners of USPTO in the past and into the future.

**Requiring a filing fee for Letters of Protest stifles or completely removes the voice of those who most need their voice to be heard in the application process, emboldens Trademark Trolls, and ultimately, stifles competition and is bad for business.**

Thank you for your time,

John Barton