



19 August 2016

The Honorable Michelle K. Lee
Under Secretary of Commerce for Intellectual Property &
Director of the United States Patent and Trademark Office
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, Virginia 22313-1451
Attention: Jennifer Chicoski

Via email: TMFRNotices@uspto.gov

**Re: IPO Comments on “Changes in Requirements for Affidavits or
Declarations of Use, Continued Use, or Excusable Nonuse in
Trademark Cases,” 81 Fed. Reg. 120 (June 22, 2016)**

Dear Director Lee:

Intellectual Property Owners Association (IPO) submits the following comments in response to the USPTO’s Federal Register notice (“Notice”) on “Changes in Requirements for Affidavits or Declarations of Use, Continued Use or Excusable Nonuse in Trademark Cases” (81 Fed. Reg. 120)

IPO is an international trade association representing companies and individuals in all industries and fields of technology who own, or are interested in, intellectual property rights. IPO’s membership includes more than 200 companies and more than 12,000 individuals who are involved in the association either through their companies or as inventor, author, law firm, or attorney members. IPO membership spans 50 countries. IPO advocates for effective and affordable IP ownership rights and provides a wide array of services to members, including supporting member interests relating to legislative and international issues; analyzing current intellectual property issues; information and educational services; and disseminating information to the general public on the importance of intellectual property rights.

IPO appreciates the USPTO allowing stakeholders the opportunity to provide comments on the proposed regulatory changes to require additional proof of use to verify the accuracy of claims that a trademark is in use in connection with particular goods or services. IPO supports the proposed changes and provides a suggestion for the USPTO’s consideration.

The “Post Registration Proof-of-Use Pilot Program” discussed in the Notice revealed that 51% of registrants selected for random audit could not substantiate use of their marks after filing an affidavit or declaration of use under Lanham Act section 8 or 71. The USPTO removed from the registration any goods or services for which a registrant could not substantiate use, which helped to increase the accuracy and integrity of the trademark

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register. Because these are important achievements that benefit trademark registrants and the public alike, IPO supports making the pilot a permanent program.

IPO recognizes that the program will impose a financial burden on those registrants randomly selected to respond to the USPTO. To reduce this burden and provide valuable information in the trademark register about the scope and nature of a registrant's use, IPO suggests that the USPTO offer registrants the option to elect out of the random audit program by voluntarily providing evidence of use for each good or service in a class. The election could be as simple as a checked box on the form at the time of filing a section 8 or 71 affidavit.

We thank you for considering these comments and welcome any further opportunity to assist the USPTO's efforts in improving the accuracy and integrity of the trademark register.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark W. Lauroesch". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mark W. Lauroesch
Executive Director