

From: [Tattooed Tees](#)
To: [TM FR Notices](#)
Subject: Fee proposal by the USPTO for filing any LOP (letter of protest) I say NO!
Date: Monday, September 30, 2019 8:47:31 PM

To Whom It May Concern:

On the USPTO.gov website the guidelines for filing trademarks are outlined in great detail. As a small business owner in the online retail space, upon starting my business, I reviewed the trademark process and guidelines provided on this website. I initially felt confident that if I ever needed to trademark my business name, I understood what was involved and that the USPTO was diligent in ensuring only proper trademarks would be registered. However, after only being in business for a few weeks I quickly learned that what I read in the guidelines on the [uspto.gov](#) website were not at all what was actually occurring in the trademark world with regard to class 025 specifically.

Having previous experience in public service, I went back to the website and located the Trademark Manual of Examining Procedure (TMEP) October 2018. This document provides the constitutional basis for Trademarks and pulls together citations from the United States Code (U.S.C) as well as the Code of Federal Regulations (C.F.R.). This manual sets forth the guidelines and procedures that examining attorneys at the USPTO should be following, however there are several current practices at the USPTO that are inconsistent with the laws and regulations in place.

I am not an attorney; I am just a very concerned small business owner looking to protect my business as well as the small businesses of countless others, just as the U.S.C. and C.F.R. sets out to ensure. Here are the inconsistencies in regulations versus current USPTO practices that I have experienced: TMEP 704 Initial Examination>704.01 The initial examination of an application by the examining attorney must be a complete examination. A complete examination includes a search for conflicting marks and an examination of the written application, any voluntary amendment(s) or other documents filed by applicant before an initial Office action is issued (see TMEP §702.01), the drawing, and any specimen(s) or foreign registration(s), to determine whether the mark is eligible for the type of registration requested, whether amendment is necessary, and whether all required fees have been paid. The examining attorney's first Office action must be complete, so the applicant will be advised of all requirements for amendment and all grounds for refusal, with the exception of use-related issues that are considered for the first time in the examination of an amendment to allege use under 15 U.S.C. §1051(c) or a statement of use under 15 U.S.C. §1051(d) in an intent-to-use application.

The key language above is a "complete examination" which does not seem to be occurring in many applications. Many applicants are not fully complying with the following guidelines and this is being overlooked by the USPTO examining attorneys. 15 U.S.C. §1051(a)(3)(D) to the best of the verifier's knowledge and belief, no other person has the right to use such mark in commerce either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive, except that, in the case of every application claiming concurrent use, the applicant shall— (i) state exceptions to the claim of exclusive use; and (ii) shall specify, to the extent of the verifier's knowledge— (I) any concurrent use by others; (II) the goods on or in connection with which and the areas in which each concurrent use exists;

(III) the periods of each use; and (IV) the goods and area for which the applicant desires registration. An excellent example of failure to verify this information is evident for the recently registered trademark for the word “Dogs” (Registration Number 5843989; Serial Number 88299285; Registration Date August 27, 2019; Goods and Services IC 025 US 022 039). A simple Amazon.com search on just apparel shows that the word “Dogs” is being concurrently used by tens of thousands of others.

Charging a fee of 100-200\$ should never be given to the person filing an LOP. Since these people are in fact doing the job of the USPTO. If LOPs are filled against a submission and you want to charge a fee for that, that fee should go to the person filing who has not done their job researching either A, before they file or B, trying to commit the crime of fraud.

The USPTO is here to keep our playing field level. We have the right of a pursuit of happiness in this country. We cannot pursue happiness if the government is limiting the words we can use to describe our actual brands or products. In the case of dogs, if I say great for dogs about a dog t-shirt I am selling the owner can make me take that product down.

Please do your job. And quit trying to take the easy way out.

Thank you

Stephanie Shipman