

From: [Jeffrey Sladkus](#)
To: [TM FR Notices](#)
Subject: Comments to Proposed Fee Increases
Date: Thursday, September 26, 2019 1:36:04 PM

Dear Sir or Madam:

On behalf of my firm, The Sladkus Law Group, we respectfully submit the following comments to the proposed PTO fee changes:

1. We oppose the new charge for “Deletion of Goods or Services as a Result of a Post Registration Audit, per Good or Service Deleted”. Many of our client’s own Madrid Registrations and, as you are well aware, many of these registrations contain a long laundry list of goods, typically based upon a Home Registration in a country that permits this type of filing. These filings are as a result of counseling our clients receive from their local firm and while we do the best we can to advise these clients of the nuances of the renewal procedure and the possibility of receiving an Audit, notwithstanding our warnings, renewals continue to be filed with laundry lists of goods.

We believe that the audit process as it currently stands (i) was a big enough shock to the system; and (ii) is achieving the PTO’s goal of removing deadwood from the registry and starting the process of keeping Registrants honest in the renewal process. However, adding a fee of \$100 per good deleted will pose a great financial risk and penalty for our clients and for U.S. law firms. First, if my firm believes that a specimen of use is appropriate and the USPTO ultimate disagrees with me, then the client is going to hold my law firm accountable. If this happens with multiple goods in a specific registration, then this could expose our firm to demands that our firm pay these fees in order to maintain the registration – and if we don’t – then this will be an instant malpractice claim. We do our best to ensure every good in a renewal is in use and the current procedure is appropriately dealing with instances where there is a discrepancy; however, these renewals aren’t done in a vacuum and a financial penalty like the one proposed will

ultimately expose the US practitioner to unnecessary and disproportionate liability as compared to the services rendered. This will also sour relations between practitioners and other foreign firms and clients. You must not ignore the real world aspects of how this will play out.

2. We oppose the increase for “Petitions to the Director Filed through TEAS”. We feel that more than 100% increase from \$100 to \$250 is excessive.
3. We oppose the new charge for “Request for Reconsideration, Prior to Appeal”. This is a brand new fee that is being ascribed to an activity that has been routinely performed by the PTO. Accordingly, we feel that going from \$0 to \$400 is excessive and cost prohibitive to many clients.
4. We oppose several of the new Trademark Trial and Appeal Board Fees. Some of these fee increases and additions will be cost prohibitive to smaller clients and will squeeze them out of the dispute process and they will not be able to afford to effectively police their trademarks. Please consider eliminating the following fee increases and fee additions so that all trademark owners will be able to effectively police their marks, not just trademark owners with deep pockets. This is especially so as the USPTO examiner’s regularly push the enforcement process onto the Registrants – ie., “If I don’t issue a 2(d), then you can use the Opposition Procedure as your Remedy”. Charging more for a 1 Class dispute than it costs to file in Federal Court is, on its face, difficult to understand.

We object to the following fee increases as being excessive, and they will disproportionately affect individual and smaller clients as it will significantly increase the costs of a proceeding before the TTAB:

- a. Filing a Petition to Cancel through ESTTA, per Class
- b. Filing a Notice of Opposition through ESTTA, per Class
- c. Ex Parte Appeal to the Trademark Trial and Appeal

Board Filed through ESTTA, per Class

- d. Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(3) through ESTTA
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- e. Filing a Request for an Extension of Time to File a Notice of Opposition under §2.102(c)(1)(ii) or (c)(2) through ESTTA
- f. Filing a Request for Reconsideration Concurrent with a Notice of Appeal, per Application
- g. Filing a Request for Suspension and Remand, per Application - Deletion of Goods or Services as a Result of an Adverse Finding in a Trademark Trial and Appeal Board Case, per Good or Service Deleted
- h. Request Motion for Summary Judgment Request for an Oral Hearing, per Proceeding

In summary, we feel that many of the fee changes will be cost prohibitive to many of our clients, will discourage using the TTAB – which Registrants and Applicants have the right to use, and will expose law firms to unreasonable risk.

Should you wish to discuss any of these comments, please feel free to contact me at any time.

Respectfully,

We have moved! Please note our new address below.

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