

**From:** [halfsweet@wt.net](mailto:halfsweet@wt.net)  
**To:** [TM FR Notices](#)  
**Subject:** I am opposed to the proposed \$100 fee to file a Letter of Protest  
**Date:** Monday, September 30, 2019 10:30:03 PM

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To Whom It May Concern:

I am writing to express my strong opposition to the proposed imposition of a \$100 fee to file a letter of protest against a frivolous trademark application.

For the past several years, many USPTO examining attorneys, in violation of your agency's own guidelines against granting approval to trademarks to marks that are strictly decorative in nature and fail to function as marks, have nonetheless granted thousands of trademarks that do not actually meet your stated guidelines. This problem has become so pervasive in the print on demand industry that a couple of years ago, many of us banded together to fight the dishonest and deceptive behavior of these unethical people we call trademark trolls. Trolls' main business is not, in fact, to create brand names and protect their marks, but rather they earn the bulk of their income by trademarking phrases, many times common phrases in the English language that they themselves did not even originate, in order to prevent other sellers from using them. They either totally annihilate their competition with these improperly granted marks, or send threatening letters demanding money and licensing fees or else to sellers who have been using the mark for years prior to the granting of the mark by the USPTO to the trolls. This has become a huge business, facilitated by the failure of the USPTO's failure to enforce its own guidelines. Trolls have caused many sellers to lose their entire businesses as a result of having their online stores shut down by Amazon, Etsy and other online platforms following the submission of a false or frivolous trademark claim by a troll. But when a platform sees a common word has been granted a trademark, it has no choice but to enforce the mark and comply with the trolls demands for removal of their competition. This behavior has NOTHING to do with the actual intended use of trademarks for brand identification and protection, and your office is encouraging this by continuing to grant trademark for commonly used English words and phrases to people who actually have no right to exclusive use of them. And yet your office GIFTS them with that right which they then turn around and use like a scythe to cut down all their competition using the mighty power of the USPTO as their sword.

At first the USPTO seemed to welcome our help and letter of protest and told us the evidence we gathered helped them greatly to arrive at proper decisions, and saved your examining attorneys a great deal of time, expense, and energy in searching for these resources. Thanks to our expertise and familiarity with these types of abuses, we were able to provide your office with definitive evidence that prevented the registration of dozens of these fraudulent trademarks.

But now, the USPTO seems to have changed sides and in your announcement, you basically complain that our efforts to help your office perform your duties and adhere to the standards laid out in your own guidelines, we have put too much additional work and burden on your attorneys, so you now propose to charge us for helping you do the work that would otherwise not get done.

We are small business owners. Most of us only clear \$100 to \$500 a month from our efforts, and now the USPTO wants to reach down into our pockets and take what little money we earn from us?

If your attorneys would simply follow your own guidelines, we wouldn't have to take valuable time out of our work weeks to research and submit such Letters of Protest. But as your office persists in making unethical and legally unsupportable decisions, such as the recent approval of the trademark of the word "Dogs" in class 025, we feel compelled to continue to protest the granting of such frivolous trademarks.

Here's what will happen in the real world as a result of the USPTO office granting this ridiculous trademark. The person who managed to secure it will now go around the internet filing takedown claims against anyone who has a shirt for sale with the word "dogs" on the shirt, anywhere in the description, bullet points, ads, etc. How exactly can you sell a shirt to dog owners without being able to use the word "dogs?" The short answer is, you can't. There are millions of dollars in sales of dog shirts every year,

plenty to go around and satisfy thousands of sellers. And yet your office has now allowed ONE SELLER to corner the entire US market on shirts with the word Dogs on them, or in their sales or ad descriptions, even though that one seller cannot possibly hope to satisfy the varied demand all by himself. This is nothing but greed, enabled and made possible by the USTPO. Your agency deploys a nuclear option when, against all reason and your own guidelines, you grant such frivolous trademarks.

If the USTPO continues on its current course, there will come a point in the not-too-distant future when the majority of everyday words in the English language will all have been granted frivolous trademarks, with the effective result of removing those words from the English language for fair use. We'll be left with no way to describe the most basic shirts we want to sell because your office will have locked up our language, which should belong to all of us, to grant the unscrupulous desires of these trademark trolls. Your office should not be enabling trademark trolling as a highly profitable business and yet, you are. It only slowed down once our group understood the power of evidence gathering and writing clear letters of protest to assist your examining attorney, all for free and at no charge to the USTPO. No one is paying us for our time, and we are not whining and complaining about being over-burdened with extra work because your office so frequently fails to uphold its own standards. We were happy to help out in what we believed and continue to believe is a vitally important cause...preventing the granting of frivolous trademarks that would negatively impact our entire sellers' community.

Instead of attacking the people who have been volunteering hundreds of unpaid hours trying to assist the USTPO fix a broken system, perhaps you could take a clear-eyed look at the problem and understand that the path your agency is currently pursuing is a business-killing dead end. Only wealthy people can afford trademarks anyway. Now you want to take away our only way of fighting back against these unethical trademark trolls by imposing a \$100 fee and getting rid of the opposition.

I urge you not to impose this fee. I also urge you to perhaps provide some retraining for your examining attorneys to ensure they all know that trademarks that are common everyday words and phrases, purely decorative in nature or that fail to function as marks, should never be granted in the first place.

If you all do your jobs properly at the USTPO, then we wouldn't have to file letters of protest, and your workload would go back to whatever you consider to be "normal."

Regards,

Pat Smith  
Bellingham, WA