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Requirement of U.S. Licensed Attorney for Trademark Applicants and Registrants Not Domiciled in the United States

Comment On: PTO-T-2018-0021-0001

Requirement of U.S. Licensed Attorney for Foreign Trademark Applicants and Registrants

Document: PTO-T-2018-0021-0021

Comment-Wang

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General Comment

Dear Madam/Sir,

It is good to see the USPTO is to change its rules improving integrity of US trademark registration as well as service quality for applicant's trademarks.

I support the rule that a qualification from service provider must be required in order to avert fraudulent trademark filing or unprofessional services, i.e. missing description of mark sample in filing, providing fake use evidence and replying OA carelessly.

However, if a foreign applicant engaging service from a US attorney is the only way to solve the issue? I don't think so.

The average attorney fee for a trademark filing is around USD300 - USD600 per hour, which cost a foreign applicant generally above USD1,000 as attorney fee for a smooth trademark application for registration. In the event of a response to an office action, much more professional fees would be incurred from applicant.

The attorney fee for trademark filing and prosecution in the United States is almost the highest globally, especially for small business starts to land US market.

Can we explore a new method and create a new position with professional skills for basic trademark filing

and prosecution matters while keeping an affordable cost for foreign applicant? My answer is YES.

Trademark practitioner is an ideal position! It would keep balance of professional services and high expense from foreign applicant.

The position would be similar to the US Patent practitioner/patent agent. The hour rate or flat fee of a registered US patent agent is approximately 1/3 even lower than that for a patent attorney with the same level of experience and professional skills.

For basic trademark matters, e.g. trademark search, new application filing, change of name/address, recording assignment, trademark renewal, replying a regular OA etc., an attorney may not be better than an experienced trademark agent.

In order to maintain a standard and quality services provided from a trademark agent, the USPTO should set up trademark agent examination, which is similar to patent agent exam, and persons reached the skills and passed the scores can obtain such a qualification.

Additionally, it is my experience that some US attorneys do not have sufficient skills and experience dealing with trademark matters, which makes foreign applicants complain the services provided from US attorneys. The reason is that they are attorneys but not trademark attorneys. Not all US attorneys know how to be a qualified trademark practitioner.

In many countries, registered trademark agents is a professional position for handling trademark matters only. They are professional, efficient and affordable for trademark owners.

To sum up, by engaging US attorney service is one option to solve the issue but would not be the only one or best one.

I would be appreciated if you consider exploring a new method that may benefit all participants in trademark matters in the United States.

Thank you.

Tao Wang