

From: [Erin Waggoner](#)
To: [Fee.Setting](#); [TM.FR Notices](#); [Cain, Catherine](#)
Subject: Proposed LOP fee
Date: Friday, August 30, 2019 8:56:14 PM

To whom it may concern:

I am a small business owner operating in the retail space of selling t-shirts, mugs, and other apparel. I do my due diligence to respect the Intellectual Property, Copyrights, and Trademarks of other businesses. As such, I regularly search the USPTO website to make sure my original and unique designs do not infringe on someone else's trademark.

Recently though, there has been a huge amount of trademarks filed that do not seem in the spirit of not the letter of the trademark law. These are people who are looking to take advantage of loopholes in the system, trademarking common phrases you find on t-shirts, in order to block others from using such common phrases and thus corner the market. These are NOT brands. Nike is a brand. Coca-Cola is a brand. Adidas is a brand. Allow me to share with you some recently awarded trademarks which clearly do not meet your own criteria.

I ONLY MAKE BOYS 5576414
WAR 5544499
GREETINGS FROM 5381513
FOOTBALL MOM 4783661
BASEBALL MOM 4783660
SOFTBALL MOM 4783658
GREATEST GUITARIST EVER 5287747
DUH 5535385
I LOVE MY BIG SISTER 4749476
WORKING HARD SO MY DOG CAN HAVE A GOOD LIFE 5534946
DOGS 5843989

This is just a small sampling of the indeed thousands of frivolous trademarks which have been granted.

Using your own guidelines as a standard, TMEP 704 Initial Examination states the examine attorney must do a "COMPLETE EXAMINATION" of the submitted specimens. Had a "complete examination" taken place, these supposed marks would have been found to 1) have concurrent use by others and (as per section 15 U.S.C 1051(a)(3) (D), and 2) be mere ornamentation (TMEP 1202.03). A simple google search will reveal thousands of products with these above phrases listed, proving they have concurrent use by others and that the filers are trying to corner the market on ornamental phrases. In fact, the "proof" submitted for the trademark DOGS was a t-shirt with said word printed across it. Not a hang tag. Not a label, an ornamental shirt. This is in direct violation of your own standards, yet the mark was accepted. And now this trademark owner can force anyone else using to word DOGS in their design to stop selling their items. How is this fair??

The one recourse small business owners have had is to file an LOP (Letter of Protest) before trademarks are awarded. With accurate documentation and proof of concurrent and ornamental use we've been able to prevent crooked trademark hoarders from abusing the system. And now it is my understanding there is a proposed \$100 fee to file an LOP. This will cripple the small businesses which earn our living from printed apparel. Please, I beg of you: stop issuing frivolous trademarks. And do not add a fee to the one resource we've had to prevent such phrases from being awarded trademarks in the first place. Perhaps the filers for these frivolous marks should be fined \$100 upon discovering they are trying to trademark purely ornamental, common use phrases.

Sincerely,
~Erin Waggoner
ELJS Design House