

From: [thomas white](#)
To: [Fee.Setting](#)
Subject: LOP fee proposal
Date: Thursday, August 29, 2019 10:58:11 PM

Dear Sir,

I understand there is a proposal to begin to charge fees for filing a letter of protest. This is an unthinkable proposal. The letter of protest is the only avenue artists and content creators have to attempt to keep a level playing field. In recent years the print on demand market (POD) has greatly expanded. Along with this expansion has come design thieves, copy cats and trademark trolls. In an effort to prevent trademark infringement most reputable site will remove creator content from inventory if any complaint is made regarding content ownership. This has had unexpected results.

Currently the market has a great number of fraudulent trademark enforcement based on frivolous trademarks issued by the USPTO. I have read through the information regarding trademarks on the USPTO site as well as called and spoke at length with members of the USPTO office. As I understand it the purpose of a trademark is just that to mark a trade or a more conventional definition is to identify a brand and protect the reputation and intellectual property of the trade mark holder. To my knowledge most member of the POD are very supportive of the trademark process. However, what we are seeing is a disturbing trend where someone will submit for a trademark for a common everyday word or phrase, which is specifically forbidden for a trademark. Additionally, in many cases the evidence is provided is some what questionable when they are computer generated mock ups or my favorite a shirt with a simple tag added to it. When in fact that marking does not exist at all in the market place.

I assume you are aware that people are submitting trademarks for everyday words and common phrase that are used in only ornamentally on merchandise simple because they are popular words that are already in use in that market place. Furthermore once these frivolous trademarks are issued they are used as justification to remove competing product from the market place when there is in-fact no confusion regarding the brand of the item.

The bottom line is there are major brands namely Apple and Windows by Microsoft. These are common words used in everyday speech that are not confused with the major brands and products that share the word. For example, Microsoft does not file trademark infringement if someone sells a shirt that says "the eyes are the windows to the soul". Nor would I expect the Apple corporation to request a take down for a shirt or coffee cup that says "An apple a day keeps the doctor away".

That being said when the USPTO office issues a frivolous trademark for a "Dogs" "This Girl" then these trademark holders are using that trademark to remove hundreds if not thousands of competing product already on the market when in fact there is no such "brand" even the trademark holders are selling these items under another brand name because in the POD market brand is for the most part used as an SEO opportunity.

The simple fact there has been a substantial increase in the numbers of LOPs being filed should serve as an indicator that good people are trying to play by the rules. The LOPs should be accepted and in most cases should clearly help indicate where a potential problem exists. I am unaware of any right to a speedy trademark. If the system backlogs I don't understand any harm that is caused.

The ideal of leveling a fee to file a LOP is in the same line of thinking as charging someone when they call the cops. To institute a fee for filing an LOP will greatly cut down on the number of LOPs filed. It will also be a huge disservice. It will allow those who want to game the system and take unfair advantage of rules that have not kept up with technology to suppress and take unfair advantage of the market place. When the USPTO issues a trademark they are giving a really big stick to someone. They way the system works now someone simple needs to do a little market research find a well saturate niche particularly in the POD market in the past this would indicate a niche to avoid because it is over saturated. But now just file for trademark for the keywords of that over saturated niche and the USPTO will give exclusive rights to what everyone else is already doing. That's it because getting the trademark is the easy part simple cheap and fast, and any challenge starts with lawyers and lots of money regardless of any over sights leading to the trademark being issued. There are grass root organizations, social media groups coming together and volunteering their time and money to fight back and follow the process that has been in place to

Charlene frivolous trademarks and the response seems to be charge those who oppose the frivolous trademark money for the opportunity to ask the USPTO not to give the rights to common words and phrase away.

This letter has gone on too long. Bottom line the trademark system is a good thing for those who have created something, established a brand, operate under that brand name, and have brand recognition. However, when a trademark is issued under false pretense, not used as a brand in the market place and then used to exclude competition of ornamental designs, well then it is huge disservice and unjust.

Perhaps the USPTO should consider substantially raising the application fees for trademarks. Maybe look more in non competitive trademarks where ornamental use is not a violation if there is no brand confusion. Perhaps probationary trademarks to see how the trademarks are enforced. Or better yet why don't we change the process of challenging a frivolous trademark when slips through the system and is then used as the stick to beat others out of the market.

I thank you for your time

Thomas White