

From: [Stephanie Witham \(tsun\)](#)
To: [TM FR Notices](#)
Subject: \$100 fee proposal for filing any LOP (letter of protest)
Date: Friday, September 27, 2019 11:24:49 PM

USPTO: To Whom It May Concern,

As a small online business owner who primarily earns money by designing merchandise like apparel and novelty items with sayings and words on them , I am deeply concerned about the proposal to charge \$100 - \$200 per LOP.

I would like to ask the Commissioner for Trademarks to remove any consideration of charging a fee for LOP's until changes have been made at the USPTO ensuring that the constitutional basis for trademarks is being followed. If a fee must be charged, I would like to suggest charging a fee to applicants whose applied-for mark does not function as a mark and receives a "failure-to-function" refusal according to TMEP 904.07(b). This may help reduce the current influx of frivolous trademark applications being submitted to the USPTO.

There seems to be a disregard of "complete examination" clause of the TMEP on the next page for several trademarks in class IC 025. Each of these frivolous trademarks has a registration number meaning that at a minimum they made it past the examining attorney's "complete examination" and certainly all of them should have received a "failure-tofunction" refusal on the grounds does not function as a trademark or service mark according to TMEP 904.07(b). Just a examples listed below.

MERMAID 5650588
THE BEST KIND OF DAD 5313209
MEGALODON 5306714
MAGICAL SEASON 5645245
#MOMLIFE 5293736
DANK YOU 5645134
WORLD'S GREATEST FUTBALL PLAYER 5292649
SEND ME. 5644146
GREATEST GUITARIST EVER 5287747
WASHED UP 5633615
BUSY MOM 5250857
HIPPIE VIBE 5613418
NOT TODAY 5247946
YES WEED CAN 5612526
BIG HAIR DON'T CARE
VOLLEYBALL LIFE 5180887
DUMPSTER DIVER 5571028
BRIDE'S MAID 5097568
GET YOUR BEER ON 5560890

There is very obvious abuse of the system by businesses to file a trademark on common words and sayings and then leverage those sayings by filing a DMCA against other businesses who then uses those common words or common sayings (that have been around for years). It's clear these do not serve as "marks" to distinguish a business identity but only serve to frivolously keep other businesses from using them with an unfair advantage.

Charging for an LOP should not be an option. The monetary burden should not fall to the filer of an LOP. The burden should be on completing a thorough examination of a mark by the examining trademark examiner/attorney even if that means longer processing times. Charging higher fees for filing a trademark should also be considered. At this point in time, it seems like a complete "money grab" by the USPTO now that the small online business owners have become more active in standing up for themselves by filing LOPs.

No to charging for LOPs.

Respectfully,
Stephanie Witham
Small Online Business Owner