

Basic Facts About Trademarks

United States Patent and Trademark Office (USPTO)
Printed in 2010



Basic Facts About Trademarks

United States Patent and Trademark Office
October 2010
Alexandria, Virginia



CONTENTS

TRADEMARK, COPYRIGHT, OR PATENT	1
SHOULD I REGISTER MY MARK?	1
WHAT DOES THE USPTO DO?.....	2
WHAT DOES THE USPTO NOT DO?.....	2
HOW DO I FILE A TRADEMARK APPLICATION?.....	2
WHAT IS THE FILING DATE AND HOW IS THE FILING DATE DETERMINED?.....	4
WHAT INFORMATION SHOULD BE INCLUDED IN THE APPLICATION?	4
OWNER OF THE MARK (APPLICANT)	5
NAME AND ADDRESS FOR CORRESPONDENCE	5
DEPICTION OF THE MARK (“THE DRAWING”).....	5
GOODS/SERVICES	7
APPLICATION FILING FEE.....	8
BASIS FOR FILING.....	9
SPECIMEN FOR USE-BASED APPLICATIONS	10
SIGNATURE.....	11
WHAT HAPPENS AFTER I FILE MY APPLICATION?	12
LEGAL AND PROCEDURAL REVIEW OF APPLICATION	12
PUBLICATION FOR OPPOSITION	13
WHAT HAPPENS AFTER PUBLICATION?	13
REGISTRATION CERTIFICATE ISSUES FOR USE IN COMMERCE APPLICATION	14
NOTICE OF ALLOWANCE (NOA) ISSUES FOR INTENT TO USE APPLICATION	14
HOW DO I ESTABLISH USE OF THE MARK IF I FILED AN INTENT TO USE APPLICATION?	14
MAINTAINING A FEDERAL TRADEMARK REGISTRATION.....	15
FEES FOR FILING TRADEMARK-RELATED DOCUMENTS	16
FOR MORE INFORMATION.....	16
INTERNATIONAL SCHEDULE OF CLASSES OF GOODS AND SERVICES.....	17

TRADEMARK, COPYRIGHT, OR PATENT

What is a trademark or service mark?

- A **trademark** is a word, phrase, symbol, or design, or a combination thereof, that identifies and distinguishes the source of the goods of one party from those of others.
- A **service mark** is the same as a trademark, except that it identifies and distinguishes the source of a service rather than goods. Throughout this booklet, the terms “trademark” and “mark” refer to both trademarks and service marks.

Do Trademarks, Copyrights, and Patents protect the same things?

No. Trademarks, copyrights, and patents protect different types of intellectual property. A trademark typically protects brand names and logos used on goods and services. A copyright protects an original artistic or literary work. A patent protects an invention. For example, if you invent a new kind of vacuum cleaner, you would apply for a patent to protect the invention itself. You would apply to register a trademark to protect the brand name of the vacuum cleaner. And you might register a copyright for the TV commercial that you use to market the product.

For copyright information, go to www.copyright.gov. For patent information, go to www.uspto.gov/patents.

SHOULD I REGISTER MY MARK?

Is registration of my mark required?

No. You can establish rights in a mark based on use of the mark in commerce, without a registration. However, owning a federal trademark registration on the Principal Register provides several advantages, including:

- Public notice of your claim of ownership of the mark;
- A legal presumption of your ownership of the mark and your exclusive right to use the mark nationwide on or in connection with the goods/services listed in the registration;
- The ability to bring an action concerning the mark in federal court;
- The use of the U.S. registration as a basis to obtain registration in foreign countries;
- The ability to record the U.S. registration with the U.S. Customs and Border Protection (CBP) Service to prevent importation of infringing foreign goods;
- The right to use the federal registration symbol ®; and
- Listing in the United States Patent and Trademark Office’s online databases.

When can I use the trademark symbols TM, SM, and ®?

If you claim rights to use a mark, you may use the “TM” (trademark) or “SM” (service mark) designation to alert the public to your claim of ownership of the mark, regardless of whether you have filed an application with the United States Patent and Trademark Office (USPTO). However, you may only use the federal registration symbol “®” after the USPTO actually *registers a mark*, and **not** while an application is pending. You may only use the registration symbol with the mark on or in connection with the goods/services listed in the federal trademark registration. Note: Several foreign countries use ® to indicate that a mark is registered in that country. Use of the symbol by the holder of a foreign registration may be proper.

WHAT DOES THE USPTO DO?

The USPTO reviews trademark applications and determines whether the applied-for mark meets the requirements for federal registration. USPTO employees will answer questions about the application process free of charge.

WHAT DOES THE USPTO NOT DO?

The USPTO does not decide whether you have the right to use a mark (which differs from the right to register). It is not mandatory to obtain a federal registration in order to acquire rights in a mark. The USPTO does not enforce your rights in the mark or bring legal action against a potential infringer. In addition, USPTO employees cannot:

- Conduct trademark searches for the public;
- Comment on the validity of registered marks;
- Answer questions prior to filing on whether a particular mark or type of mark is eligible for trademark registration; or
- Offer legal advice or opinions about common law trademark rights, state registrations, or trademark infringement claims.

HOW DO I FILE A TRADEMARK APPLICATION?

Is there a form for filing my application?

Yes. You can file your application directly over the Internet using the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas>. Two options are available: regular TEAS and TEAS Plus. Both options allow you to pay by credit card, electronic funds transfer, or through an existing USPTO deposit account. Electronic filing has many advantages over filing on paper, including:

- **On-line help.** Hyperlinks provide help sections for each of the application fields.
- **Validation function.** TEAS checks information to help avoid the omission of important information.
- **Immediate reply.** The USPTO immediately issues an initial filing receipt via e-mail containing the assigned application serial number and a summary of the submission.
- **24-hour availability.** TEAS is available 24 hours a day, 7 days a week (except 2 a.m. to 6 a.m. Sundays when you cannot pay by credit card, although you can create forms and save them for later filing). You can receive a filing date until midnight Eastern Standard Time on any date.
- **Lower filing fees.** The filing fee for using TEAS is lower than the fee for filing on paper. **If you use the TEAS Plus form, the fee is even lower than the regular TEAS application.**
- **More accurate filing receipts.** Most of your information is transferred directly from what you enter into the database and is generally not re-entered by hand at the USPTO.

If you do not have Internet access, you can access TEAS at any Patent and Trademark Depository Library (PTDL) throughout the United States. Many public libraries also provide Internet access.

What is the difference between the regular TEAS and the TEAS Plus application options?

The filing fee for a regular TEAS application is \$325 per class of goods/services. The TEAS Plus application has a lower filing fee of \$275 per class of goods/services, and you must meet certain additional requirements. For example, you must be able to select an entry or entries from the USPTO's *Acceptable Identification of Goods and Services Manual* that accurately describe your goods/services. Additionally, you must file communications regarding the application through TEAS, and receive communications concerning the application by e-mail. If you fail to meet the TEAS Plus requirements, the USPTO will require that you pay an additional fee of \$50 per class.

Are there other ways to file than by the Internet?

Yes. We recommend using TEAS, but you may file a paper application. To obtain a printed form you can call the USPTO's automated telephone line at 1-800-786-9199. Our mailing address is Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451. You may NOT submit an application by facsimile.

Is a search of the USPTO database necessary before filing?

It is advisable to conduct a search of the USPTO database before filing your application to determine if there is a registered or pending mark that is similar to yours. You may search the USPTO's Trademark Electronic Search System (TESS) database free of charge before filing or you may wish to hire an attorney to perform the search and assess the results for you.

The USPTO cannot search your mark for you prior to filing. After filing, the USPTO will conduct a search and will refuse to register your mark if there is another registered mark or pending mark similar to yours for related goods/services.

The USPTO database is available through www.uspto.gov under “Search Marks”. Alternatively, you can search the database at a Patent and Trademark Depository Library (PTDL). Information about PTDL locations is available through www.uspto.gov.

Information on how to search the database (including some search strategies) is available through www.uspto.gov.

Do I have to hire an attorney?

No. You are not required to hire an attorney, but if you decide to prepare and submit your own application, you must comply with all requirements of the trademark statutes and rules and may be required to respond to legal issues raised by the USPTO. Because the application process can be complex, many applicants choose to appoint an attorney to represent them. If you choose to appoint an attorney, we will only communicate with your attorney. The USPTO cannot help you select an attorney. However, the American Bar Association website includes information on how to find local attorneys who practice trademark law.

WHAT IS THE FILING DATE AND HOW IS THE FILING DATE DETERMINED?

If you transmit your application over the Internet, the filing date is the date the transmission reaches the USPTO server, in Eastern Standard Time. If you file on paper, the filing date of an application is the date the USPTO receives the application. The USPTO relies on a filing date to assess priority among applications.

Receiving a filing date does not mean that you have satisfied ALL registration requirements. To obtain a registration, you must comply with all application requirements and overcome any refusal(s) issued by the USPTO during examination.

WHAT INFORMATION SHOULD BE INCLUDED IN THE APPLICATION?

- OWNER OF THE MARK (APPLICANT)
- NAME AND ADDRESS FOR CORRESPONDENCE
- DEPICTION OF THE MARK (“THE DRAWING”)
- GOODS/SERVICES
- APPLICATION FILING FEE

- BASIS FOR FILING
- SPECIMEN FOR USE-BASED APPLICATIONS
- SIGNATURE

Except for payment information, all data you submit to the USPTO, including your phone number, e-mail address, and street address, will become part of a public record and will be viewable through the Internet.

OWNER OF THE MARK (APPLICANT)

The application must be filed in the name of the owner of the mark. The owner of the mark is the person or entity who controls the nature and quality of the goods/services identified by the mark. The owner is not necessarily the name of the person filling out the form. The owner may be an individual, corporation, partnership, LLC, or other type of legal entity.

Must I be a U.S. citizen to apply?

No. You are not required to be a U.S. citizen to apply for and obtain a federal registration.

NAME AND ADDRESS FOR CORRESPONDENCE

The applicant's name and street address is required for the USPTO to send communications concerning the application. If the applicant also provides an e-mail address and authorizes the USPTO to correspond electronically, the USPTO will send notices regarding the application by e-mail. Applicants who file using the TEAS PLUS form are required to authorize e-mail correspondence.

Applicants who reside outside the United States may include the name and address of a domestic representative on their application. A domestic representative is a person residing in the U.S. upon whom notices or process may be served for proceedings affecting the mark.

Changes of Address: You must keep your mailing address and/or e-mail address up to date with the USPTO. Changes of address should be filed using the Change of Correspondence Address form on TEAS at <http://www.uspto.gov/teas>. If you send a change of address on paper, please include the applicant's name, the mark, and the application serial number and mail to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

DEPICTION OF THE MARK ("THE DRAWING")

Every application must include a clear image of the mark ("the drawing"). The USPTO uses the drawing to upload the mark into the USPTO search database and to print the mark in the *Official Gazette* and on the registration certificate.

There are two types of drawings: “standard character” and “special form.”

What is a “standard character” drawing?

A standard character drawing is commonly submitted when the mark you wish to register consists solely of words, letters, or numbers. A standard character mark protects the wording itself, without limiting the mark to a specific font, style, size, or color and therefore gives you broader protection than a special form drawing.

A standard character drawing must have the following characteristics:

- No design element;
- No stylization of lettering and/or numbers;
- Any letters and words in Latin characters;
- Any numbers in Roman or Arabic numerals;
- Only common punctuation or diacritical marks.

The USPTO has created a standard character set that lists letters, numerals, punctuation marks, and diacritical marks that may be used in a standard character drawing. The set is available on the USPTO’s website at <http://teas.uspto.gov/standardCharacterSet.html>.

How do I file a standard character drawing?

When you file electronically, TEAS generates a standard character drawing for you, based on the information you enter on the form under “enter the mark here.”

When you file on paper, you must use standard letter-size paper and include these elements at the top of the “drawing page” as part of your application: applicant’s name; correspondence address; and the following statement: “The mark is presented in standard character format without claim to any particular font style, size or color.” The representation of the mark must appear in the middle of the page.

What is a “special form” drawing?

If your mark includes a design or logo, alone or with wording, or if the particular style of lettering or particular color(s) is important, you must select the “special form” drawing format.

How do I file a “special form” drawing?

When you file electronically, you must upload an image of your mark into the TEAS form. The mark image must be in .jpg format and should have little or no white space appearing around the design of the mark. Mark images should not include the trademark, service mark or registration symbols (TM, SM, ®). Unless a color image is being submitted for a mark wherein color is claimed as a feature of the mark, the mark image should be pure black-and-white.

When you file on paper, you must use standard letter-size paper and include the applicant's name and correspondence address at the top of the drawing page as part of your application. The mark must appear in the middle of the page.

The following is an example of a proper special form drawing page for an application filed on paper for the mark T.MARKEY and the design of T.MARKEY:

Applicant's Name: Jefferson Partners, Inc.

Correspondence Address: 100 Main Street, Any Town, MO 12345



Should I submit a color drawing or a black-and-white drawing?

Generally, you may submit a black-and-white drawing even if you use your mark in color, because a black-and-white drawing covers use of your mark in any color. To claim a specific color(s), you must submit a color drawing of your mark.

What are the requirements if I submit a color drawing?

You must submit the following: (1) a “color claim” naming the color(s) and stating that the color(s) is a feature of the mark; and (2) a separate statement describing the mark and stating where the color(s) appears in the mark.

GOODS/SERVICES

What is the difference between goods and services?

Goods are products, such as bicycles or candles. Services are activities performed for the benefit of someone else, such as bicycle rental services or catering.

The difference between goods and services may be confusing. Are your customers paying for a product or paying you to perform a specific activity? If your customer is paying you for a product, such as a candle or bicycle, then you have goods. However, if your customer is paying you to perform an activity, such as catering or bicycle rental, then you have services. You may list both goods and services in an application.

You must list the specific goods/services for which you want to register your mark. If you are filing based upon “use in commerce,” you must be using the mark in commerce on all the goods/services listed. If you are filing based upon a “bona fide intent to use the mark,” you must have a good faith

or bona fide intent to use the mark on all the goods/services listed.

You should check the USPTO's *Acceptable Identification of Goods and Services Manual (ID Manual)* at <http://tess2.uspto.gov/netathtml/tidm.html>, which contains a listing of acceptable identifications of goods and services. Any entry you choose must accurately describe your goods/services. A failure to correctly list the goods/services with which you use the mark, or intend to use the mark, may prevent you from registering your mark. You will not be given a refund of any fees paid.

If the *ID Manual* does not contain an accurate listing for your goods/services, you must describe them using clear, concise terms that the general public easily understands. If you list vague terms, such as “miscellaneous services” or “company name,” your application will be considered void and you must file a new application.

If using the TEAS PLUS form, you must choose your goods/services from the *ID Manual*. Therefore, you should check the *ID Manual* prior to filling out the form. If no *ID Manual* entry accurately identifies your goods/services, you cannot use the TEAS PLUS form. However, you can use the regular TEAS form.

May I change the goods/services after filing my application?

You may clarify or limit the goods/services but you may not expand or broaden the goods/services. For example, if you filed for “shirts,” you may limit the goods to specific types of shirts such as “t-shirts and sweatshirts.” However, you may not change the goods to “shirts and pants.” Likewise, if you file for “jewelry,” you may change the goods to specific types of jewelry such as “jewelry, namely, earrings.” However, you may not change the goods to a service such as “jewelry stores.”

APPLICATION FILING FEE

Application filing fees are based on the type of application form used (paper, regular TEAS, or TEAS Plus) and the number of International Classes of Goods or Services in the application. Paper applications have the highest filing fee and TEAS Plus applications have the lowest filing fee. For current fees for trademark applications, see the current USPTO Fee Schedule at www.uspto.gov or call the Trademark Assistance Center at 1-800-786-9199.

Goods and services are sorted into categories called “International Classes.” Each International Class requires a separate filing fee. For a listing of the International Classes, see the International Schedule of Classes of Goods and Services at the back of this booklet.

The TEAS and TEAS Plus forms accept payment by credit card and electronic funds transfer or through an existing USPTO deposit account. If you are filing on paper, you can download the form for authorizing credit-card charges from the USPTO website at <http://www.uspto.gov/web/forms/2038.pdf> or pay by a check or money order made payable to “Director of the USPTO.”

Filing fees are not refundable. If your application meets the filing requirements but is later refused on legal grounds, the application filing fee will not be refunded.

BASIS FOR FILING

The application must specify your “basis” for filing. Most U.S. applicants base their application on either their current use of the mark in commerce or their intent to use the mark in commerce in the future.

What is the difference between a “use in commerce” application and an “intent to use” application?

Under either basis, prior to registration you must demonstrate that you have used the mark in commerce. The basic difference between these two filing bases is whether you have started to use the mark on all the goods/services. If you have already used your mark in commerce, you may file under the “use in commerce” basis. If you have not yet used your mark, but intend to use it in the future, you must file under the “intent to use” basis. An “intent to use” basis requires filing an additional form and fee that are unnecessary if you file under “use in commerce.” For information on the additional form, see the “HOW DO I ESTABLISH USE OF THE MARK IF I FILED AN INTENT TO USE APPLICATION?” section on page 14.

What is a “use in commerce” basis?

For applications filed under the use in commerce basis, you must be using the mark in the sale or transport of goods or the rendering of services in “interstate” commerce between more than one state or U.S. territory, or in commerce between the U.S. and another country. For goods, the mark must appear on the goods (e.g., tags or labels), the container for the goods, or displays associated with the goods. For services, the mark must be used in the sale or advertising of the services.

How do I establish my “use in commerce” basis?

- Provide the date of first use of the mark anywhere and the date of first use of the mark in commerce.
- Submit a specimen (example) showing how you use the mark in commerce. See the “SPECIMEN” section on page 10.

What is the difference between the “date of first use anywhere” and the “date of first use in commerce”?

The date of first use anywhere is the date on which the goods were first sold or transported or the services were first provided under the mark even if that use was only local. The date of first use in commerce is the date on which the goods were first sold or transported or the services were first provided under the mark between more than one state or U.S. territory, or in commerce between the U.S. and another country. The date of first use anywhere must be the same as or earlier than the date of first use in commerce.

What is an “intent to use” basis?

If you have not yet used the mark but plan to do so in the future, you may file based on a good faith or bona fide intent to use the mark in commerce. A bona fide intent to use the mark is more than an idea and less than market ready. For example, having a business plan, creating sample products, or performing other initial business activities may reflect a bona fide intent to use the mark.

Is there any other possible filing basis?

Yes. Under certain international agreements, you may file in the U.S. based on a foreign application, foreign registration, or international registration. See the *Trademark Manual of Examining Procedure (TMPEP)* at Chapters 1000 and 1900 for the specific requirements.

SPECIMEN FOR USE-BASED APPLICATIONS

What is a “specimen” of use and how does it differ from the “drawing”?

A specimen is a sample of how you actually use the mark in commerce on your goods or with your services. A specimen is not the same as the drawing. The drawing shows only your mark, whereas a specimen shows the mark as your purchasers encounter it in the marketplace (e.g., on the labels or on your website).

What is a proper specimen for use of a mark on goods (products)?

Usually, a specimen for a mark used on goods shows the actual goods, or labeling or packaging for the goods. For example, your specimen may be a tag or label displaying the mark, or a photograph showing the mark on the goods or packaging. The specimen may not be a “mock-up” of these items but must be a sample of what you actually use. An example of an acceptable specimen for the mark “T.MARKEY” used on t-shirts is shown on the right.



Is my website a proper specimen for goods?

A website is an acceptable specimen if the mark appears near a picture of the goods (or a description of the goods) **and** your customers can order the goods from the website. A website that merely advertises the goods is not acceptable.

What is NOT a proper specimen for goods?

Invoices, announcements, order forms, leaflets, brochures, publicity releases, letterhead, and business cards generally are NOT acceptable specimens for goods.

What is a proper specimen for use of a mark with services?

A specimen for a mark used in connection with services must show the mark used in providing or advertising the services. For example, your specimen may be a sign, a brochure about the services, an advertisement for the services, a website, a business card, or stationery showing the mark. The specimen must show or contain some reference to the services, that is, it is not just a display of the mark itself.

For example, if the mark sought to be registered is “T.MARKEY” for retail stores featuring men’s sportswear, a specimen that only shows the mark “T.MARKEY” would not be acceptable, but a specimen that shows the mark “T.MARKEY” on the clothing store would be acceptable, as shown on the right.



What is NOT a proper specimen for services?

Printer’s proofs for advertisements or news articles about your services are not acceptable because they do not show your use of the mark.

When do I file the specimen?

If your application is based on “**use in commerce**,” you must submit one specimen for each class of goods/services when you file the application.

If your application is based on “**intent to use**,” you must submit one specimen for each class of goods/services when you file the “allegation of use.” The allegation of use may be filed prior to publication (Amendment to Allege Use) or after publication (Statement of Use). For more information on the Allegation of Use see the “HOW DO I ESTABLISH USE OF THE MARK IF I FILED AN INTENT TO USE APPLICATION?” section on page 14.

How do I file the specimen?

If filing electronically, you must attach an image of your specimen in .jpg or .pdf format. To show the context in which the mark is used, the image should include as much of the label or advertisement as possible. For specimens consisting of audio and video files, see TMEP Section 904.03(f).

If filing a paper application, Amendment to Allege Use, or Statement of Use, the specimen must be flat and no larger than 8½ by 11 inches (e.g., a label or photograph of the packaging). However, you may submit compact discs, or DVDs, with files in .jpg, .pdf, .wav, .wma, .wmv, .mp3, .mpg, or .avi format.

SIGNATURE

Who may sign the application?

A person who is properly authorized to sign the application on behalf of the applicant is:

- A person with legal authority to bind the applicant (e.g., a corporate officer); or
- A person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the applicant; or
- An attorney who is authorized to practice before the USPTO.

How do I sign a TEAS application?

In a TEAS application, you enter an electronic signature on the form by typing your signature between two forward slashes. Examples of acceptable signatures for TEAS applications include */john doe/* or */jrd/*. It is impermissible for one person to enter another person's signature.

What do I have to do after I file the application?

You must be diligent in monitoring the status of your application. This means you must:

- Check the status of your pending application regularly. We recommend that you check your application's status every 3 to 4 months.
- Promptly contact the USPTO and request corrective action when necessary.

How do I check the status?

You may check the status of any pending application through the Trademark Application and Registration Retrieval (TARR) database at <http://tarr.uspto.gov>. You must have your serial number available (a serial number generally begins with 76, 77, 79, or 85). If you do not have access to the Internet, you can call the Trademark Assistance Center at 1-800-786-9199 to request a status check.

When you check your application status, make sure that you have received all communications sent to you by the USPTO and have taken appropriate action. Also, print a copy of the TARR status page for your records.

WHAT HAPPENS AFTER I FILE MY APPLICATION?

- LEGAL AND PROCEDURAL REVIEW OF APPLICATION
- PUBLICATION FOR OPPOSITION

LEGAL AND PROCEDURAL REVIEW OF APPLICATION

Approximately 3 months from the date your application is filed, the application is assigned to an examining attorney to determine whether federal law permits registration. The examining attorney will examine the written application, the drawing, and any specimen. Federal registration of trademarks is governed by the Trademark Act of 1946, 15 U.S.C. §1051 *et seq.*, and the *Trademark Rules of Practice*, 37 C.F.R. Part 2.

The examining attorney may issue a letter (Office action) explaining any reasons for refusing registration or other requirements. If you receive an Office action, you must submit a response **within 6 months** of the issue date of the Office action. Your filing fee will NOT be refunded if the application is refused registration.

What is the most common reason an examining attorney refuses registration?

The most common reason for refusing registration is a likelihood of confusion with the mark in a registration or prior application. The examining attorney will search the USPTO database to determine whether there are any marks that are likely to cause confusion with your mark. The principal factors considered by the examining attorney in determining whether there would be a likelihood of confusion are:

- The similarity of the marks; and
- The commercial relationship (e.g., channels of trade or class of purchasers) between the goods/services listed in the application and those listed in the registration or pending application.

To find a conflict, the marks do *not* have to be identical and the goods/services do not have to be the same. It may be enough that the marks are *similar* and the goods/services are *related*.

What are some other reasons for refusing registration?

Registration may be refused if the mark is:

- Descriptive for the goods/services;
- A geographic term;
- A surname;
- Ornamental as applied to the goods.

For a discussion of these and other possible refusals, see Chapter 1200 of the *Trademark Manual of Examining Procedure (TMEP)* at <http://tess2.uspto.gov/tmdb/tmep/>.

PUBLICATION FOR OPPOSITION

If no refusals or additional requirements are identified or if all identified issues have been resolved, the examining attorney approves the mark for publication in the *Official Gazette (OG)*, a weekly online publication. The USPTO will send you a Notice of Publication stating the publication date.

WHAT HAPPENS AFTER PUBLICATION?

After publication in the *OG*, there is a 30-day period in which the public may object to the registration of the mark by filing an opposition. An opposition is similar to a court proceeding, but is held before the Trademark Trial and Appeal Board, a USPTO administrative tribunal. A third party who is considering filing an opposition may first file a request for an extension of time to file the opposition, which could delay further action on your application.

The next step after publication depends on your basis for filing the application:

REGISTRATION CERTIFICATE ISSUES FOR USE IN COMMERCE APPLICATION

If no opposition is filed or if you successfully overcome an opposition, you do not need to take any action for the application to enter the next stage of the process. Absent any opposition-related filings, the USPTO generally will issue a registration certificate about 12 weeks after publication, if the application is based upon the actual use of the mark in commerce (Section 1(a)) or on a foreign or international registration (Section 44(e) or Section 66(a)).

NOTICE OF ALLOWANCE (NOA) ISSUES FOR INTENT TO USE APPLICATION

If no opposition is filed or you successfully overcome an opposition, you do not need to take any action for the application to enter the next stage of the process. Absent any opposition-related filings, the USPTO generally will issue a NOA about 8 weeks after publication.

A NOA indicates that your mark has been allowed, but does not mean that it has registered. As the next step to registration, within 6 months of the issue date of the NOA you must:

- Submit a “Statement of Use” if you filed based on intent to use (Section 1(b)) and are now using the mark in commerce;
- Begin using the mark in commerce and then submit a “Statement of Use;” or
- Submit a six-month “Request for an Extension of Time to File a Statement of Use” if you need additional time to begin using the mark in commerce.

Forms for filing both the Statement of Use and Extension of Time are at <http://www.uspto.gov/teas>.

HOW DO I ESTABLISH USE OF THE MARK IF I FILED AN INTENT TO USE APPLICATION?

Notice of Allowance Has Already Issued

If a NOA has already issued, you establish use by filing a Statement of Use (SOU) form that contains a sworn statement that you are now using the mark in commerce on all the goods/services. You may delete goods/services for which the mark is not in use. The SOU must also include:

- A filing fee of \$100 per class of goods/services;
- The date of first use of the mark anywhere and the date of first use of the mark in commerce; and
- One specimen (or example) showing how you use the mark in commerce for each class of goods/services.

Once the USPTO issues the NOA, you have 6 months to file the SOU. The 6-month period runs from the issue date shown on the NOA, not the date you receive it. If you have not used the mark in commerce, you must file a Request for an Extension of Time to File a Statement of Use (Extension Request) before the end of the 6-month period, or the application will be declared abandoned. You may request 5 additional extensions for up to a total of 36 months from the NOA issue date, with a statement of your ongoing efforts to make use of the mark in commerce. A filing fee of \$150 per class of goods/services must accompany the Extension Request. The form for filing the Extension Request is at <http://www.uspto.gov/teas>. The date of the grant or denial of an Extension Request does not affect the deadline for filing the SOU or next Extension Request. The deadline is always calculated from the issue date of the NOA.

Notice of Allowance Has Not Yet Issued

If the NOA has not yet issued and the application has not yet been approved for publication, you may file an Amendment to Allege Use, which includes the same information as the SOU (see above). You may not file the Amendment to Allege Use during the “blackout period” after approval of the mark for publication and before issuance of the NOA. In that situation, you must wait until after the blackout period to file your SOU.

MAINTAINING A FEDERAL TRADEMARK REGISTRATION

To maintain your trademark registration, you must file your first maintenance document before the end of the 6th year after the registration date and other maintenance documents thereafter. Your registration certificate contains important information on maintaining your federal registration. The USPTO does NOT send reminder notices when the documents are due. Forms for filing the maintenance documents are at <http://www.uspto.gov/teas>.

Rights in a federally registered trademark can last indefinitely if you continue to use the mark and file all necessary maintenance documents at the appropriate times. You must file:

- Declaration of Continued Use or Excusable Nonuse under Section 8 (§8 declaration); and
- Combined Declaration of Continued Use and Application for Renewal under Sections 8 and 9 (combined §§8 and 9).

A §8 declaration is due before the end of the 6-year period after the registration date or within the 6-month grace period thereafter. Failure to file this declaration will result in the cancellation of the registration.

A combined §§8 and 9 must be filed before the end of every 10-year period after the registration date or within the 6-month grace period thereafter. Failure to make these required filings will result in cancellation and/or expiration of the registration.

For further information, including information regarding the special requirements that apply to Madrid Protocol registrations, see “Maintain/Renew a Registration” at www.uspto.gov or contact the Trademark Assistance Center at 1-800-786-9199.

FEES FOR FILING TRADEMARK-RELATED DOCUMENTS

Current fees for all trademark filings are available online at www.uspto.gov (click “View Fee Schedule”) or can be obtained by calling the Trademark Assistance Center at 1-800-786-9199.

For the following documents, fees are based on the total number of International Classes that the USPTO assigns to your goods/services. For a listing of the International Classes, see the “International Schedule of Classes of Goods and Services” at the end of this booklet.

Initial Application

TEAS Plus application - \$275 per international class

TEAS application - \$325 per international class

Paper application - \$375 per international class

Intent to Use documents

Amendment to Allege Use (AAU) - \$100 per international class

Statement of Use (SOU) - \$100 per international class

Request for Extension of Time to file SOU - \$150 per international class

Post Registration maintenance fees

Declaration of Continued Use or Excusable Nonuse under Section 8 (§8 declaration) - \$100 per international class

Combined Declaration of Continued Use and Application for Renewal under Sections 8 and 9 (combined §§8 and 9) - \$500 per international class

FOR MORE INFORMATION:

- **USPTO website at www.uspto.gov, Trademark Basics**
For instructional videos, application processing timelines and frequently asked questions (FAQs)
- **Trademark Assistance Center 1-800-786-9199 (TrademarkAssistanceCenter@uspto.gov)**
For general trademark information and printed application forms
- **Patent and Trademark Depository Libraries**
Patent and Trademark Depository Libraries (PTDLs) are a nationwide network of public, state, and academic libraries that disseminate patent and trademark information and support the diverse intellectual property needs of the public. The PTDLs have trained specialists who may answer specific questions regarding the trademark process, but they do not provide legal advice. More information on PTDLs, including a list of the PTDLs in your state, is available at www.uspto.gov under “Products & Services.”

INTERNATIONAL SCHEDULE OF CLASSES OF GOODS AND SERVICES

GOODS

Class 1 (Chemicals): Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins; unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2 (Paints): Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

Class 3 (Cosmetics and cleaning preparations): Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

Class 4 (Lubricants and fuels): Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

Class 5 (Pharmaceuticals): Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6 (Metal Goods): Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; nonelectric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

Class 7 (Machinery): Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs.

Class 8 (Hand tools): Hand tools and implements (hand-operated); cutlery; side arms; razors.

Class 9 (Electrical and scientific apparatus): Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus.

Class 10 (Medical apparatus): Surgical, medical, dental, and veterinary apparatus and instruments, artificial limbs, eyes, and teeth; orthopedic articles; suture materials.

Class 11 (Environmental control apparatus): Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply, and sanitary purposes.

Class 12 (Vehicles): Vehicles; apparatus for locomotion by land, air, or water.

Class 13 (Firearms): Firearms; ammunition and projectiles; explosives; fireworks.

Class 14 (Jewelry): Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewelry, precious stones; horological and chronometric instruments.

Class 15 (Musical Instruments): Musical instruments.

Class 16 (Paper goods and printed matter): Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks.

Class 17 (Rubber goods): Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

Class 18 (Leather goods): Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

Class 19 (Nonmetallic building materials): Building materials (non-metallic); nonmetallic rigid pipes for building; asphalt, pitch and bitumen; nonmetallic transportable buildings; monuments, not of metal.

Class 20 (Furniture and articles not otherwise classified): Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

Class 21 (Housewares and glass): Household or kitchen utensils and containers; combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steel-wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

Class 22 (Cordage and fibers): Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

Class 23 (Yarns and threads): Yarns and threads, for textile use.

Class 24 (Fabrics): Textiles and textile goods, not included in other classes; beds and table covers.

Class 25 (Clothing): Clothing, footwear, headgear.

Class 26 (Fancy goods): Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

Class 27 (Floor coverings): Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28 (Toys and sporting goods): Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

Class 29 (Meats and processed foods): Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats.

Class 30 (Staple foods): Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

Class 31 (Natural agricultural products): Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals; malt.

Class 32 (Light beverages): Beers; mineral and aerated waters and other nonalcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

Class 33 (Wine and spirits): Alcoholic beverages (except beers).

Class 34 (Smokers' articles): Tobacco; smokers' articles; matches.

SERVICES

Class 35 (Advertising and business): Advertising; business management; business administration; office functions.

Class 36 (Insurance and financial): Insurance; financial affairs; monetary affairs; real estate affairs.

Class 37 (Building construction and repair): Building construction; repair; installation services.

Class 38 (Telecommunications): Telecommunications.

Class 39 (Transportation and storage): Transport; packaging and storage of goods; travel arrangement

Class 40 (Treatment of materials): Treatment of materials.

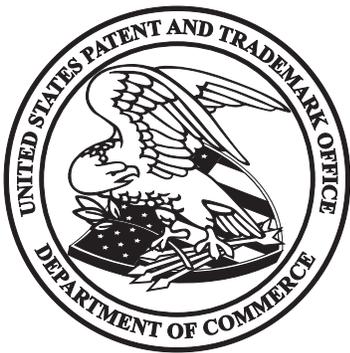
Class 41 (Education and entertainment): Education; providing of training; entertainment; sporting and cultural activities.

Class 42 (Computer and scientific): Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

Class 43 (Hotels and restaurants): Services for providing food and drink; temporary accommodations.

Class 44 (Medical, beauty & agricultural): Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Class 45 (Personal): Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.



United States Patent and Trademark Office
An Agency of the United States
Department of Commerce



United States Patent and Trademark Office (USPTO)
An Agency of the United States Department of Commerce