IP Alert | 2025 U.S. Trademark Fee Changes

On November 15, 2024, the U.S. Patent and Trademark Office announced its final rule to update its trademark fee schedule effective **January 18, 2025**.

Not only will fees increase for both new applications and existing registrations, but the new rule will change the way trademark applications are filed in the first place.

Impactful Changes to New/Pending Applications

- **What types of new applications will be affected by the new rule?**
  - Use-based applications (Section 1(a) of the Trademark Act)
  - Intent to use applications (Section 1(b) of the Trademark Act)
  - Applications based on foreign applications/registrations (Section 44 of the Trademark Act)
- **What about Madrid Protocol applications (Section 66 of the Trademark Act)?**
  - Madrid Protocol applications are not affected by the new rule because the World Intellectual Property Organization (WIPO) is currently unable to collect additional fees before recording a Madrid application. That said, the fee for Madrid applications extending into the U.S. will increase from $500 to $600.

Impactful Changes to Applications and Registrations

- **What new application fees will be imposed?**
  - The following new fees will be imposed as “surcharge fees” for incomplete or missing information in filing new applications. Some examples include:

- $200 per class to use the free-form text box to describe goods/services instead of using pre-set descriptions in the Trademark ID Manual.
- $200 per class for every 1000 characters (including punctuation and spaces) in the goods/services descriptions beyond the first 1000 characters
- $100 per class for incomplete or missing information with respect to the following aspects of the application:
  - The applicant’s name, domicile address, and legal entity
  - A description of a stylized/design mark, including any color claims
  - Goods and/or services that belong in more than one class

- A claim of ownership of prior registrations
- A transliteration of non-Latin characters
- An English translation of non-English wording
- If the mark includes an individual's name or likeness, statements either identifying the living individual or that the name or likeness does not identify a living individual
- Designation of a U.S. attorney (if the applicant's domicile is not located in the U.S. or its territories)
- The required declaration (missing or unsigned)

- **Which existing fees will be raised?**
  - **Amendments to Allege Use/Statement of Use (for Intent-to-Use Applications)**
    - Amendment to Allege Use or a Statement of Use will increase to $150 per class
  - **Registration Maintenance/Renewal Declarations**
    - Section 8 Declaration will increase to $325 per class
    - Section 9 Declaration will increase to $325 per class
    - Section 15 Declaration will increase to $250 per class
    - Section 71 Declaration will increase to $325 per class
  - **Petitions**
    - Petition to the Director will increase to $400
    - Petition to Revive Application will increase to $250

Key Takeaways

- To the extent possible, aim to file new trademark applications, statements of use, and maintenance and renewal documents before the fees increase on January 18, 2025.
- Budgeting for new applications from filing through prosecution will be more difficult given the new surcharge fees, which can quickly add up if an application contains several classes.
- Applicants, especially international applicants that typically have longer descriptions of goods and/or services because they are based on their home/foreign applications or registrations, should carefully consider the 1,000-character limit prior to filing to avoid the $200 per class surcharge.

  The character limit includes punctuation and spaces. For comparison, this "Key Takeaways" section has 1,270 characters, including punctuation and spaces.
- If applicants cannot find accepted terms for their goods and services in the Trademark ID Manual, consider sending a suggestion for them to be added to the Manual. Currently, the Trademark ID Manual is updated weekly and an applicant can submit a request for particular identification to be added to the Manual. Responses are usually provided within 1-2 business days, and if accepted, the new identification will appear in the next weekly update of the Manual.

Posted: December 16, 2024