Table of Contents

Volume 1

TRADEMARK MANUAL OF EXAMINING PROCEDURE (TMEP)

INTRODUCTION

CHAPTER 100 GENERAL INFORMATION

101 Trademark statute and rules
102 U.S. patent and trademark office website
103 Trademark documents
104 Trademark search systems
105 General information about trademarks
106 The *Official Gazette*
107 Trademark manuals
108 Status inquiries
108.01 Trademark Status and Document Retrieval (TSDR) database
108.02 Trademark Assistance Center (TAC)
108.03 Due diligence: duty to monitor status
109 Access to records
109.01 Electronic image records
109.02 Paper files
109.03 Making copies of materials in records
110 Decisions available to the public
111 Requests for copies of trademark documents
112 Patent and trademark resource centers

CHAPTER 200 APPLICATION FILING DATE

201 What constitutes a filing date
201.01 Effective filing date controls for purposes of determining priority for publication or issue
201.02 Constructive use priority
202 Requirements for receiving a filing date
202.01 Clear drawing of the mark
202.02 Listing of recognizable goods or services
202.03 Filing fee for at least one class of goods or services
202.03(a) Fee payment refused or charged back by financial institution
202.03(a)(i) Processing fee for payment refused or charged back by financial institution
203 Review for compliance with minimum requirements
204 Defective or informal applications
204.01 Filing date cancelled if minimum filing requirements not met
204.02 Resubmission of applications and request to restore filing date
204.03 Examining attorney's handling of applications that are erroneously accorded a filing date
205 Filing date is not normally changed

206 Effective filing date
206.01 Amendment of § 1(b) application from Principal Register to Supplemental Register upon filing of allegation of use
206.02 Application claiming priority under § 44(d) or § 67
206.03 Applications filed before November 16, 1989, that are amended to the supplemental register on or after November 16, 1989
206.04 Examining attorney's action after conducting new search

CHAPTER 300 FILING AND RECEIPT OF DOCUMENTS

301 Filing documents
301.01 Electronic filing is mandatory
301.01(a) Trademark Electronic Filing System
301.01(b) Trademark Electronic Filing System Availability
301.02 Limited exceptions for paper submissions
301.02(a) Treaty-exempt filers under international agreements
301.02(b) Specimens for scent, flavor, or similar non-traditional marks
301.02(c) Petition to accept a paper submission
301.02(d) Postal service interruption or emergency
301.02(e) Applications filed under trademark action Section 66(a)
301.02(f) "Grandfathered" applications and post-registration maintenance documents
302 Trademark correspondence—In general
302.01 Duplicate documents should not be filed
302.02 Identifying the type of document filed
302.02(a) Correspondence pertaining to trademark applications
302.02(b) Correspondence pertaining to trademark registrations
303 Filing date of trademark correspondence
303.01 Filing date for electronic submissions
303.02 Acknowledgment of receipt by USPTO
303.02(a) Trademark Electronic Filing System submission confirmation page
303.02(b) Permitted paper filings: USPTO "mail room date" label showing receipt
303.02(c) Permitted paper filings: filer-provided postcard receipt
304 Email
304.01 Informal communication acceptable via email
304.02 Formal communications not acceptable via email
304.03 Official email correspondence from the USPTO
305 Permitted paper filings: mailing documents to the USPTO
305.01 Mailing addresses
305.02 Certificate of mailing procedure
305.02(a) When certificate of mailing procedure may be used
305.02(b) Mailing requirements
305.02(c) Location and form of certificate
305.02(d) Wording of certificate of mailing
305.02(e) Effect of certificate of mailing
305.02(f) Correspondence mailed pursuant to 37 C.F.R. § 2.197 but not received by USPTO
305.02(g) Correspondence deposited as first-class mail pursuant to 37 C.F.R. § 2.197 and returned by the U.S. postal service
305.02(h) Certificate of mailing requirements strictly enforced

305.03 Priority Mail Express®
305.03(a) Filing date when priority mail express® is used
305.03(b) Discrepancy between filing date and "date accepted"
305.03(c) Incorrectly entered "date accepted"
305.03(d) Correspondence not received by the USPTO
305.03(e) Certificate of mailing under 37 C.F.R. § 2.197 for documents sent by priority mail express®
305.04 Interruptions in U.S. Postal Service
306 Facsimile (fax) submissions
307 Hand delivery
308 Period ending on saturday, sunday, or federal holiday
309 Unscheduled closings of the U.S. patent and trademark office
310 Computing period for response to office action or notice

CHAPTER 400 PROCESSING DOCUMENTS AND FEES

401 Processing new applications
401.01 Filing receipts
401.02 Application serial numbers
401.03 Creation of application records
402 Electronic application and registration records
402.01 USPTO does not create paper copies of trademark-related documents
403 USPTO correspondence returned as undeliverable
404 Documents not returnable
405 Fees
405.01 Credit cards
405.02 Checks
405.03 Deposit accounts
405.04 Refunds
405.05 Electronic funds transfer
405.06 Payments refused or charged back by financial institutions

CHAPTER 500 CHANGE OF OWNERSHIP

501 Assignment of marks
501.01 Assignability of marks in applications and registrations
501.01(a) Assignability of intent-to-use applications
501.01(b) Assignability of extensions of protection of international registrations to the United States
501.02 Assignments must be in writing
501.03 Effect of failure to record assignment
501.04 Foreign assignee may designate domestic representative
501.05 Assignee stands in place of applicant or registrant
501.06 Partial assignments
501.07 Assignment of extension of protection of international registration to the United States
502 Establishing ownership of applications or registrations
502.01 Establishing the right to take action in application or registration
502.02 Pending applications—Issuance of registration certificate in name of assignee or in applicant's new name
502.02(a) Applications Under Trademark Act § 1 and § 44

502.02(b) Applications Under Trademark Act § 66(a)
502.02(c) Examining attorney's action regarding assignment
502.03 Issuance of New Certificate to Assignee of Registrant
503 Recording with assignment services branch
503.01 Effect of recording a document
503.01(a) Recording may not update ownership information
503.01(b) Recording does not update correspondence address in trademark database
503.01(c) Recording is not a determination of validity
503.01(d) Recording does not constitute response to office action
503.01(e) Conditional assignment
503.02 Documents that the office will record
503.03 Requirements for recording
503.03(a) Formal requirements for recording documents
503.03(b) Supporting documents
503.03(c) English language requirement
503.03(d) Fee for recording
503.03(e) Cover sheet
503.04 Mailing address for submitting paper documents for recording
503.05 Recording procedure and recordation date
503.06 Correction of errors in cover sheet or recorded document
503.06(a) Typographical errors in cover sheet
503.06(a)(i) Typographical errors in cover sheet that do not affect title to application or registration
503.06(a)(ii) Typographical errors in cover sheet that do affect title to application or registration
503.06(b) Typographical errors in recorded assignment document
503.06(c) Assignment, change of name, or other interest improperly filed and recorded by another person against owner's application or registration
503.06(d) Owner must notify trademark operation of correction
503.06(e) Recorded documents not removed from assignment records
503.06(f) Petitions to correct or "expunge" assignment records
503.07 "Indexing" against recorded document not permitted
503.08 Accessibility of assignment records
503.08(a) Trademark assignment abstracts of title
504 Automatic updating of ownership of trademark applications and registrations in trademark database
504.01 Circumstances in which trademark database will not be automatically updated
504.02 Processing time for automatic updating
504.03 Correction to automatic update—Last recorded owner does not have clear chain of title
504.04 Automatic updating does not apply to § 66(a) applications and registered extensions of protection
505 Requesting update of ownership information when the trademark database does not automatically update after a document is recorded
505.01 Request to update ownership information in pending application
505.02 Request to update ownership information after registration

CHAPTER 600 ATTORNEY, REPRESENTATIVE, AND SIGNATURE

601 Requirement for representation based on domicile of mark owner
601.01 Determining an owner's domicile
601.01(a) Owners with a non-U.S. domicile
601.01(b) Owners with a U.S. domicile
601.01(c) Examination procedures for reviewing domicile addresses
601.01(c)(i) Determining the acceptability of domicile addresses
601.01(c)(ii) Evaluating a new domicile address provided in response to a domicile address requirement
601.01(c)(iii) Reviewing general arguments or evidence provided in response to a domicile address requirement
601.01(c)(iv) Reviewing "no fixed physical address" explanation
601.01(c)(iv)(A) Response options for applicants or registrants with "no fixed physical address"
601.01(c)(iv)(B) Reviewing the name, title, and domicile address of an individual with legal authority to bind the juristic entity
601.01(c)(v) Checking the record for a petition to the director to waive the domicile address requirement
601.01(d) Domicile address must be kept current
601.01(e) Hiding the domicile address
601.02 Communications with applicant or registrant who is represented by an attorney
602 Persons authorized to practice before USPTO in trademark matters
602.01 Attorneys licensed to practice in the United States
602.01(a) Attorney identification information required
602.01(b) Invalid attorney identification information
602.02 Non-attorneys
602.03 Foreign attorneys and agents
602.03(a) Canadian trademark attorneys and agents
602.03(b) Documents filed by foreign attorneys and agents not reciprocally recognized
602.03(c) Representatives of holders of international registrations
603 Standards of conduct
604 Recognition as a representative
604.01 Three ways to be recognized as a representative
604.02 Attorney bar information required
604.03 Duration of recognition
604.04 Change of attorney
605 Powers of attorney
605.01 Requirements for power of attorney
605.02 Power of attorney relating to more than one application or registration
605.03 Associate powers of attorney
605.04 Power of attorney filed after registration
606 Revocation of power of attorney
607 Withdrawal of attorney of record
608 Unauthorized practice
608.01 Actions by unauthorized persons not permitted
608.02 Individuals excluded, suspended, or unauthorized to practice before the USPTO

609 Correspondence, with whom held
609.01 Establishing the correspondence address
609.01(a) Correspondence in section 66(a) applications and registrations
609.02 Changing the correspondence address
609.02(a) When the correspondence address may be changed without using the change of address or representation form
609.02(b) Requirements for request to change correspondence address
609.02(c) Processing requests to change the correspondence address before registration
609.02(d) Changing the correspondence address in multiple applications or registrations
609.02(e) Changing the correspondence address after registration
609.02(f) Correspondence after recordation of change of ownership
609.03 Applicant and registrant have duty to maintain current and accurate correspondence address
610 Designation of domestic representative by parties not domiciled in the United States
611 Signature on correspondence filed in the united states patent and trademark office
611.01 Signature and certificate
611.01(a) Signature as certificate
611.01(b) Requirements for signature
611.01(c) Signature of documents filed electronically
611.01(c)(i) Electronic signatures generated using document-signing software
611.01(c)(ii) Requirements for Electronic Signatures Generated Using Document-signing Software
611.02 Signatures by authorized parties required
611.02(a) Signature radio buttons in electronic forms
611.03 Proper person to sign
611.03(a) Verification
611.03(b) Responses, amendments to applications, requests for express abandonment, requests for reconsideration of final actions, and requests to divide
611.03(c) Powers of attorney and revocations of powers of attorney
611.03(d) Petitions to revive
611.03(e) Petitions to the director
611.03(f) Amendment, correction, or surrender of registration
611.03(g) Renewal applications
611.03(h) Designations and revocations of domestic representative
611.03(i) Requests to change correspondence address in an application or registration
611.04 Examples of authorized and potentially unauthorized signatories
611.05 Processing documents signed by an improper party
611.05(a) Notice of incomplete response when authority of person signing response is unclear
611.05(b) Replying to a notice of incomplete response
611.05(c) Unsatisfactory response or failure to respond
611.06 Guidelines on persons with legal authority to bind certain juristic entities
611.06(a) Joint owners
611.06(b) Signature by partnership
611.06(c) Signature by joint venture
611.06(d) Signature by corporation
611.06(e) Signature by foreign companies and corporations

611.06(f) Signature by unincorporated association
611.06(g) Signature by limited liability company
611.06(h) Signature by limited liability partnership

CHAPTER 700 PROCEDURE FOR EXAMINING APPLICATIONS

701 Statutory authority for examination
702 Order of work
702.01 Order of examination
702.02 "Special" applications
702.03 Related applications
702.03(a) Companion applications
702.03(a)(i) Companion applications not previously assigned for the same or similar marks
702.03(a)(ii) Companion applications previously assigned
702.03(a)(iii) Companion registrations
702.03(a)(iv) Classification and identification in companion applications that have registered or been published for opposition
702.03(b) Conflicting applications
703 USPTO does not issue duplicate registrations
704 Initial examination
704.01 Initial examination must be complete
704.02 Examining attorney's search
704.03 Supervisory examining attorney may indicate action for non-signatory examining attorney
705 The examining attorney's letter or action
705.01 Language in examining attorney's letter
705.02 Examining attorneys should not volunteer statements
705.03 Citation of conflicting marks
705.04 Reference to matter in printed or online publications
705.05 Citation of decisions, orders, and USPTO publications
705.06 Reviewing and signing of letters
705.07 Processing outgoing office actions
705.08 Response clause
706 New Matter raised by examining attorney after first action
706.01 Clear error
707 Examiner's amendment
707.01 Approval of examiner's amendment by applicant or applicant's attorney
707.02 Examiner's Amendment Without Prior Authorization by Applicant or Applicant's Attorney
707.03 Form of the examiner's amendment
708 Priority action
708.01 Priority action defined
708.02 Discussion of issues and agreements
708.03 Form of the priority action
708.04 Refusal of registration in priority action
708.05 Combined examiner's amendment and priority action
709 Interviews
709.01 Interviews with examining attorneys

709.02 Persons with whom the examining attorney may discuss the application in an interview
709.03 Making substance of interview of record
709.04 Telephone and email communications
709.05 Informal communications
709.06 Interviews prior to filing application
709.07 Decorum required in communications with the office
710 Evidence
710.01 Evidence supporting refusal or requirement
710.01(a) Evidence from research database
710.01(b) Internet Evidence
710.01(c) Record Must Be Complete Prior to Appeal
710.02 Search for evidence indicating no refusal or requirement necessary
710.03 Evidence of third-party registrations
711 Deadline for response to office action
711.01 Request for extension of time to respond
711.01(a) Requirements for request for extension of time to respond
711.01(b) Time for filing a request for extension of time to respond
711.02 Time may run from previous action
711.03 Supplemental office action resetting response period
712 Signature on response to office action
712.01 Persons who may sign response
712.02 Unsigned response
712.03 Response signed by an improper person
713 Examination of amendments and responses to office actions
713.01 Previous action by different examining attorney
713.02 Noting all outstanding refusals or requirements
713.03 Response to applicant's arguments in nonfinal actions
714 Final action
714.01 Not permissible on first action
714.02 Not permissible on suspension
714.03 When final action is appropriate
714.04 Form of the final action
714.05 Delineating new issues requiring issuance of nonfinal action
714.05(a) When an amendment proposed by applicant requires a new nonfinal action
714.05(a)(i) Amendment to supplemental register or submission of claim of acquired distinctiveness
714.05(a)(ii) Amendment of identification of goods/services
714.05(b) Section 2(d) refusal based on earlier-filed application that has matured into registration
714.05(c) Advisory statement cannot serve as foundation for final refusal or requirement
714.05(d) Submission of consent agreement or assertion of unity of control in response to § 2(d) refusal
714.05(e) Submission of substitute specimen in response to refusal for failure to show use of the mark in commerce
714.05(f) Submission of substitute specimen in response to refusal for failure to show the applied-for mark functioning as a mark
714.06 Applicant's recourse when final action is premature

715 Action after issuance of final action
715.01 Proper response to final action
715.02 Action after final action
715.03 Request for reconsideration after final action
715.03(a) Examining attorney's action when no new issue or no significantly different evidence is presented in request for reconsideration and no notice of appeal has been filed
715.03(a)(i) Request for reconsideration resolves all outstanding issues and no notice of appeal has been filed
715.03(a)(ii) Request for reconsideration does not resolve all outstanding issues and no notice of appeal has been filed
715.03(a)(ii)(A) Prior amendment withdrawn
715.03(a)(ii)(B) Outstanding refusals and/or requirements must be continued, time remains in response period for applicant to appeal, and no notice of appeal has been filed
715.03(a)(ii)(C) Outstanding refusals and/or requirements may be resolved if applicant is given 30 Days or time remaining in response period to comply with issues
715.03(a)(ii)(D) Outstanding refusals and/or requirements must be continued, time for appeal has expired, and no notice of appeal has been filed—Abandon for incomplete response
715.03(a)(ii)(E) Responses after final refusal signed by unauthorized persons, unsigned responses, electronic responses consisting solely of a signature, and TEAS responses missing significant data or attachments
715.03(b) Examining attorney's action when new issue or new evidence is presented in request for reconsideration and no notice of appeal has been filed
715.03(c) Time for appeal runs from issue date of final action
715.04 Request for reconsideration filed in conjunction with notice of appeal
715.04(a) Examining attorney's action when no new issue is presented in request for reconsideration and notice of appeal has been filed
715.04(b) Examining attorney's action when new issue or new evidence is presented and notice of appeal has been filed
716 Suspension of action by USPTO
716.01 Form of suspension notice
716.02 Circumstances under which action may be suspended
716.02(a) Applicant's petition to cancel cited registration
716.02(b) Submission of copy of foreign registration in § 44(d) application
716.02(c) Conflicting marks in pending applications
716.02(d) Inter partes or court proceeding
716.02(e) Pending cancellation or expiration of cited registration
716.02(f) Pending expiration of "insurance" extension request
716.02(g) Pending receipt of a correction, limitation, assignment, or other change to the international record from the international bureau
716.02(h) Pending recordation of an assignment document
716.02(i) Pending registry agreement with ICANN for marks comprised solely of gTLDs for domain registry operator and domain name registrar services
716.02(j) Pending disposition of expungement or reexamination proceedings
716.02(k) Pending disposition of post registration audit
716.02(l) Pending decision on a petition to waive the domicile address requirement
716.03 Applicant's arguments against suspension
716.04 Suspended docket checked

716.05 Inquiry by examining attorney regarding suspended application
716.06 Suspension after final action
717 Reissuing an office action
717.01 Email notice of office action undeliverable
717.02 Permitted paper filings: non-receipt of mailed office action
718 Abandonment
718.01 Express abandonment by applicant or applicant's attorney
718.02 Failure by applicant to take required action during the relevant response period
718.02(a) Partial abandonment
718.03 Incomplete response
718.03(a) Holding of abandonment for failure to respond completely
718.03(b) Granting additional time to perfect response
718.04 Failure to file statement of use
718.05 Failure to perfect appeal
718.06 Notice of abandonment for failure to respond
718.07 Revival or reinstatement of abandoned application — new search required
719 Non-responsive communications
720 Fraudulent filings

CHAPTER 800 APPLICATION REQUIREMENTS

801 Types of applications
801.01 Single or combined application
801.01(a) Single (single-class) application
801.01(b) Combined (multiple-class) application
801.02 Principal Register or Supplemental Register
801.02(a) Act of 1946, principal register
801.02(b) Act of 1946, supplemental register
802 Application form
803 Applicant
803.01 Who may apply
803.02 Name of applicant
803.02(a) Individual
803.02(b) Partnership, joint venture, or other "firm"
803.02(c) Corporation and association
803.03 Legal entity of applicant
803.03(a) Individual or sole proprietorship
803.03(b) Partnership, joint venture, or other "firm"
803.03(c) Corporation, association, organization, and company
803.03(d) Joint applicants
803.03(e) Trusts, conservatorships, and estates
803.03(e)(i) Business trusts
803.03(f) Governmental bodies and universities
803.03(g) Banking institutions
803.03(h) Limited liability companies
803.03(i) Common Terms Designating Entity of Foreign Applicants
803.03(j) Federally recognized Indian tribe
803.03(k) Limited liability partnerships
803.04 Citizenship of Applicant

803.05 Domicile and email addresses of applicant
803.05(a) Domicile address
803.05(b) Email address
803.06 Applicant may not be changed
804 Verification and signature
804.01 Form and wording of verification in § 1 or § 44 application
804.01(a) Verification with oath
804.01(a)(i) Verification made in foreign country
804.01(b) Declaration in lieu of oath
804.02 Averments required in verification of application for registration—§ 1 or § 44 application
804.03 Time between execution and filing of documents—§ 1 or § 44 application
804.04 Persons authorized to sign verification or declaration
804.05 Verification of § 66(a) application
805 Identification and classification of goods and services
806 Filing basis
806.01 Requirements for establishing a basis
806.01(a) Use in commerce—§ 1(a)
806.01(b) Intent-to-use—§ 1(b)
806.01(c) Foreign priority—§ 44(d)
806.01(d) Foreign registration—§ 44(e)
806.01(e) Extension of protection of international registration—§ 66(a)
806.02 Multiple bases
806.02(a) Procedure for asserting more than one basis
806.02(b) Applicant may file under both § 1(a) and § 1(b) in the same application
806.02(c) Examination of specimens of use in a multiple-basis application
806.02(d) Abandonment of multiple-basis applications
806.02(d)(i) Abandonment for failure to respond to an office action
806.02(d)(ii) Abandonment for failure to respond to a notice of allowance
806.02(e) Allegation of bona fide intention to use mark in commerce required even if application is based on both § 44 and § 1(a)
806.02(f) Section 44(d) combined with other bases
806.02(g) Not necessary to repeat allegation of bona fide intention to use mark in commerce in multiple-basis application
806.03 Amendments to add or substitute a basis
806.03(a) When basis can be changed
806.03(b) Applicant may add or substitute a § 44(d) basis only within six-month priority period
806.03(c) Amendment from § 1(a) to § 1(b)
806.03(d) Amendment from § 44 to § 1(b)
806.03(e) Allegation of use required to amend from § 1(b) to § 1(a)
806.03(f) Use in commerce as of application filing date required to add or substitute § 1(a) as a basis in § 44 application
806.03(g) Amendment from § 1(b) to § 44
806.03(h) Effect of substitution of basis on application filing date
806.03(i) Verification of amendment required
806.03(j) Petition to amend basis after publication—§ 1 or § 44 application
806.03(j)(i) Amending the basis of a § 1(b) application after publication but before issuance of notice of allowance

806.03(j)(ii) Amending the basis of a § 1(b) application between issuance of notice of allowance and filing of statement of use
806.03(j)(iii) Amending the basis of a § 1(b) application after filing of statement of use but before approval for registration
806.03(k) Basis cannot be changed in § 66(a) application
806.03(l) § 66(a) basis cannot be added to § 1 or § 44 application
806.04 Deleting a basis
806.04(a) Deletion of § 1(b) basis after publication or issuance of the notice of allowance
806.04(b) Retention of § 44(d) priority filing date without perfecting § 44(e) basis
806.05 Review of basis prior to publication or issue
807 Drawing
807.01 Drawing must show only one mark
807.02 Drawing must be limited to mark
807.03 Standard character drawings
807.03(a) Requirements for standard character drawings
807.03(b) List of standard characters
807.03(c) Drawings containing both a standard character claim and designs or other elements
807.03(d) Changing from special form elements to standard characters, or the reverse, may be a material alteration
807.03(e) Standard character drawing and specimen of use
807.03(f) Standard character drawing and foreign registration
807.03(g) Drawings in "typed" format with no standard character claim
807.03(h) Drawings where the format is unclear
807.03(i) Typed drawings
807.04 Special form drawings
807.04(a) Characteristics of special form drawings
807.04(b) When special form drawing is required
807.05 Drawings in electronic applications
807.05(a) Standard character drawings in electronic applications
807.05(a)(i) Long standard character marks in electronic applications
807.05(b) Special form drawings in electronic applications
807.05(c) Requirements for digitized images
807.06 Paper drawings
807.06(a) Type of paper and size of mark
807.06(b) Long marks in standard character drawings
807.07 Color in the mark
807.07(a) Requirements for color drawings
807.07(a)(i) Color must be claimed as a feature of the mark
807.07(a)(ii) Applicant must specify the location of the colors claimed
807.07(b) Color Drawings Filed Without a Color Claim
807.07(c) Color drawings filed with an incorrect color claim
807.07(d) Color drawings that contain black, white, or gray
807.07(d)(i) Applications under § 1
807.07(d)(ii) Applications Under § 44
807.07(d)(iii) Applications under § 66(a)
807.07(e) Black-and-white drawings and color claims

807.07(f) Black-and-white drawings that contain gray or black-and-white drawings with a mark description that refers to black, white, or gray
807.07(f)(i) Applications filed electronically and § 66(a) applications
807.07(f)(ii) Applications filed on paper
807.07(g) Drawings in applications filed before November 2, 2003
807.08 Broken lines to show placement
807.09 "Drawing" of sound, scent, or non-visual mark
807.10 Three-dimensional marks
807.11 Marks with motion
807.12 Mark on drawing must agree with mark on specimen or foreign registration
807.12(a) Applications Under Trademark Act § 1
807.12(a)(i) Role of punctuation in determining whether mark on drawing agrees with mark on specimen
807.12(a)(ii) Punctuation on the drawing but not on the specimen
807.12(a)(iii) Punctuation on the specimen but not on the drawing
807.12(b) Applications Under Trademark Act § 44
807.12(c) Applications Under Trademark Act § 66(a)
807.12(d) Mutilation or incomplete representation of mark
807.12(e) Compound word marks and telescoped marks
807.13 Amendment of mark
807.13(a) Amendment of mark in applications under § 1 and § 44
807.13(b) Mark in § 66(a) application cannot be amended
807.14 Material alteration of mark
807.14(a) Removal or deletion of matter from drawing
807.14(b) Addition or deletion of previously registered matter
807.14(c) Addition or deletion of punctuation
807.14(d) Amendments to correct "internal inconsistencies"
807.14(e) Amendments to color features of marks
807.14(e)(i) Black-and-white drawings
807.14(e)(ii) Marks that include color and other elements
807.14(e)(iii) Color marks
807.14(f) Material alteration: case references
807.15 Substitute drawings
807.16 Amendment of drawings by the USPTO
807.17 Procedures for processing unacceptable amendments to drawings
807.18 Mark drawing code
808 Description of mark
808.01 Guidelines for requiring description
808.01(a) Meaning of term in mark
808.01(b) Lining and stippling statements for drawings
808.02 Description must be accurate and concise
808.03 Examination procedure for descriptions
808.03(a) Accurate and complete descriptions
808.03(b) No description in application
808.03(c) Accurate but incomplete description in application or amendment
808.03(c)(i) Accurate but incomplete descriptions in cases where a description is needed to clarify the mark and must be published
808.03(c)(ii) Accurate but incomplete descriptions in cases where a description need not be published

808.03(d) Inaccurate description in application or amendment
808.03(e) Amending descriptions
808.03(f) Updating design coding
808.03(g) Unacceptable statements in mark descriptions
809 Translation and transliteration of non-English wording and non-Latin characters in mark
809.01 Examining applications for marks comprising non-English wording or non-Latin characters that do not include an accurate translation or transliteration
809.01(a) Inquiry/applicant's response regarding meaning in a foreign language
809.01(b) Limited exceptions to translation requirement
809.01(b)(i) Foreign terms appearing in English dictionary
809.01(b)(ii) Foreign articles or prepositions combined with English terms
809.01(b)(iii) Wording from Dead or Obscure Languages
809.02 Equivalency in Translation
809.03 Printing of translations and transliterations
810 Filing fee
810.01 Collection of fees for multiple classes
810.02 Refunds
811 Attorney identification information and designation of domestic representative
811.01 Attorney identification information required for complete application
811.02 Designation of a domestic representative
812 Identification of prior registrations of applicant
812.01 Proving ownership of prior registrations
813 Consent to register by particular living individual whose name or likeness appears in the mark
813.01 Statement published in *Trademark Official Gazette* and included on registration certificate
813.01(a) Name or likeness is that of a living individual
813.01(b) Name or likeness is not that of a living individual
813.01(c) Updating the trademark database
814 Requesting additional information
815 Application filed on supplemental register
815.01 Marks eligible for Principal Register not registrable on Supplemental Register
815.02 Elements required
815.03 Filing on Supplemental Register Is Not an Admission that the Mark Has Not Acquired Distinctiveness
815.04 Basis for refusal of registration of matter that is incapable
816 Amending application to Supplemental Register
816.01 How to amend
816.02 Effective filing date
816.03 Amendment to different register
816.04 Amendment after refusal
816.05 Amendment after decision on appeal
817 Preparation of application for publication or registration
818 Application checklist (§ 1 and § 44)
819 Base application requirements and additional fees
819.01 Base application requirements for determining additional fees
819.02 Insufficient information fee
819.02(a) Applicant's name and domicile address

819.02(b) Applicant's legal entity and citizenship
819.02(c) Basis or bases for filing
819.02(c)(i) Section 1(a)—Use in commerce
819.02(c)(i)(A) Trademarks and service marks
819.02(c)(i)(B) Collective trademarks, collective service marks, and collective membership marks
819.02(c)(i)(C) Certification marks
819.02(c)(ii) Section 1(b)—Intent to use
819.02(c)(ii)(A) Trademarks and service marks
819.02(c)(ii)(B) Collective trademarks, collective service marks, and collective membership marks
819.02(c)(ii)(C) Certification marks
819.02(c)(iii) Section 44(e)—Foreign registration
819.02(c)(iii)(A) Trademarks and service marks
819.02(c)(iii)(B) Collective trademarks, collective service marks, and collective membership marks
819.02(c)(iii)(C) Certification marks
819.02(c)(iv) Section 44(d)—Foreign application
819.02(c)(iv)(A) Trademarks and service marks
819.02(c)(iv)(B) Collective trademarks, collective service marks, and collective membership marks
819.02(c)(iv)(C) Certification marks
819.02(d) Multiple-class applications
819.02(e) Filing fee
819.02(f) Verification
819.02(g) Drawing
819.02(h) Color claim
819.02(i) Description of the mark
819.02(j) Translation and/or transliteration
819.02(k) Consent to registration of name or portrait
819.02(l) Prior registration of the same mark
819.02(m) Concurrent use applications
819.02(n) Qualified U.S. attorney required for applicant with Foreign domicile
819.03 Free-form text ID fee
819.04 Excess character ID fee
819.05 Fee considerations and procedures
819.05(a) Payment of all fees required at filing
819.05(b) Same fee paid at filing may not be required for same classes during examination
819.05(c) Different fees for same application
819.05(d) Examiner's amendments and priority actions
819.06 TEAS Standard, TEAS RF, and TEAS Plus applications
819.06(a) TEAS Standard and TEAS RF applications
819.06(b) TEAS Plus applications

CHAPTER 900 USE IN COMMERCE

901 Use in commerce
901.01 Definitions
901.02 Bona fide use in the ordinary course of trade

901.03 Commerce that may be lawfully regulated by congress
901.04 Inquiry regarding use in commerce
902 Allegations of use for § 1(b) applications
903 Dates of use
903.01 Date of first use anywhere
903.02 Date of first use in commerce
903.03 Relation between the two dates of use
903.04 Amending dates of use
903.05 First use by predecessor or related company
903.06 Indefinite dates of use
903.06(a) Apparent discrepancies between dates of use and date of execution
903.07 Dates of use in another form
903.08 More than one item of goods or services
904 Specimens
904.01 Number of specimens
904.01(a) More than one item specified in a class
904.01(b) Combined or multiple-class applications
904.02 Physical form of specimens
904.02(a) Electronically filed specimens
904.02(b) Permitted paper-filed specimens
904.02(c) Additional requirements
904.02(c)(i) Other materials required for examination
904.02(c)(ii) Specimens for marks comprising color
904.02(c)(iii) Specimens for marks used on publications
904.03 Material appropriate as specimens for trademarks
904.03(a) Labels and tags
904.03(b) Stampings
904.03(c) Commercial packaging
904.03(d) Electronic and digital media specimens for permitted paper filings
904.03(e) Specimens for trademarks identifying downloadable or recorded computer programs, movies, and videos, or audio recordings
904.03(f) Specimens for sound marks
904.03(g) Displays associated with goods
904.03(h) Catalogs
904.03(i) Electronic displays
904.03(i)(A) Picture or description of the goods
904.03(i)(B) Show the mark in direct association with the goods
904.03(i)(B)(1) Prominence of mark
904.03(i)(B)(2) Placement of mark and proximity to the goods
904.03(i)(C) Ordering information
904.03(i)(C)(1) "Shopping cart" and "shopping bag" buttons and links
904.03(i)(C)(2) Telephone numbers and email addresses
904.03(i)(C)(3) "Contact Us," "customize," or "configure" buttons and links
904.03(i)(D) Beta Websites
904.03(j) Manuals
904.03(k) Specimens for marks that are impracticable to place on goods, packaging, or displays
904.03(l) Specimens for motion marks
904.03(m) Specimens for scent and flavor marks or similar non-traditional marks

904.04 Material not appropriate as specimens for trademarks
904.04(a) Drawing or image of the mark; digitally created/altered or mockup specimens
904.04(a)(i) Defining digitally created/altered or mockup specimens
904.04(a)(ii) Identifying digitally created/altered or mockup specimens
904.04(a)(iii) General examination considerations for digitally created/altered or mockup specimens
904.04(b) Advertising material as specimens for goods
904.04(c) Package inserts
904.05 Affidavit supporting substitute specimens
904.06 Translation of matter on specimens
904.07 Requirements for substitute specimens and statutory refusals
904.07(a) Whether the specimen shows the mark as actually used in commerce
904.07(a)(i) Action after submission of substitute specimen
904.07(b) Whether the specimen shows the applied-for mark functioning as a mark
904.07(b)(i) Action after submission of substitute specimen
905 Method of use
906 Federal registration notice
906.01 Foreign countries that use registration symbol ®
906.02 Improper use of registration symbol
906.03 Informing applicant of apparent improper use
906.04 Fraud
907 Compliance with other statutes

CHAPTER 1000 APPLICATIONS UNDER SECTION 44

1001 Section 44 applications—General
1002 Eligible applicants under § 44
1002.01 Eligible applicants under § 44(e)
1002.02 Eligible applicants under § 44(d)
1002.03 Establishing Entitlement Under a Treaty or Foreign Law
1002.04 Establishing country of origin
1002.05 U.S. applicants
1003 Section 44(d)—Priority filing date based on a foreign application
1003.01 The "first-filed" requirement
1003.02 Priority claim must be filed within six months of foreign filing
1003.03 Basis for registration required
1003.04 Suspension awaiting a foreign registration
1003.04(a) Applications based solely on Section 44
1003.04(b) Multiple-basis applications
1003.04(c) Periodic inquiries issued as to status of foreign application
1003.05 Section 44(d) and priority for publication
1003.06 Applicants may file under both §§ 44(d) and 44(e)
1003.07 Application may be based on more than one foreign application
1003.08 Abandonment of the foreign application
1004 Applications based on foreign registrations under § 44(e)
1004.01 Copy of foreign registration required
1004.01(a) Status of the foreign registration
1004.01(b) Translation of the foreign registration or renewal document
1004.02 Application may be based on more than one foreign registration

1005 Ownership of the foreign application or registration
1006 Assignment of § 44 applications
1007 Standards for registration under Section 44
1008 Bona fide intention to use the mark in commerce
1009 Allegation of use and specimen of use not required prior to registration
1010 Proof of acquired distinctiveness in § 44 applications
1011 Drawings
1011.01 Substantially Exact Representation of Mark in Foreign Registration
1011.02 One mark per application
1011.03 Amendment of drawing
1011.04 Drawings and descriptions of three-dimensional, multimedia and non-visual marks
1012 Identification of goods and services
1013 Requirement for representation of applicants not domiciled in the United States
1014 Section 44 applications for the supplemental register
1015 Section 44 registration independent of underlying foreign registration
1016 International registration as basis for section 44 application

CHAPTER 1100 INTENT-TO-USE APPLICATIONS AND REQUESTS TO DIVIDE

1101 Bona fide intention to use the mark in commerce
1102 Initial examination of intent-to-use applications
1102.01 Substantive refusals
1102.02 Drawings
1102.03 Intent-to-use applications and the supplemental register
1102.04 Claims of acquired distinctiveness under § 2(f)
1103 Allegations of use
1104 Amendment to allege use under § 1(c) of the Act
1104.01 Minimum filing requirements for an amendment to allege use
1104.01(a) Review by legal instruments examiner for compliance with minimum filing requirements
1104.01(b) Processing an amendment to allege use that does not meet minimum filing requirements
1104.01(c) Processing defective amendment to allege use filed with other amendments
1104.02 Form of amendment to allege use
1104.03 Time for filing amendment to allege use
1104.03(a) Use on all goods/services required before filing
1104.03(b) The "blackout period"
1104.03(c) Processing amendment to allege use filed during the blackout period
1104.04 Processing timely amendment to allege use discovered after publication
1104.05 Amendment to allege use filed in conjunction with application
1104.06 Processing amendment to allege use received before application is assigned to an examining attorney
1104.07 Amendments to allege use and ex parte appeals
1104.08 Requirements for a complete amendment to allege use
1104.09 Acceptance of amendment to allege use that meets minimum filing requirements by examining attorney
1104.10 Examination of amendment to allege use on the merits for compliance with statutory requirements

1104.10(a) Issuance of office action related to amendment to allege use
1104.10(b) Common examination issues related to amendments to allege use
1104.10(b)(i) Ownership
1104.10(b)(ii) Verification and date of execution
1104.10(b)(iii) Identification of goods/services
1104.10(b)(iii)(A) Identification of Nature of Collective Membership Organization
1104.10(b)(iv) Use in commerce and dates of use
1104.10(b)(v) Specimen
1104.10(b)(vi) Drawing
1104.10(b)(vii) Fees
1104.11 Amendment and withdrawal of amendment to allege use
1105 Publication of intent-to-use applications for opposition
1106 Notice of allowance
1106.01 Issuance of the notice of allowance
1106.02 Action by examining attorney after issuance of the notice of allowance
1106.03 Cancellation of notice of allowance
1106.04 Correction of errors in notice of allowance
1107 Amendment after issuance of the notice of allowance and before filing of the statement of use
1107.01 Examination of amendment filed after the notice of allowance issues but before a statement of use is filed
1108 Requests for extensions of time to file the statement of use
1108.01 Time for filing requests for extensions of time to file the statement of use
1108.02 Requirements for request for an extension of time to file a statement of use
1108.02(a) Ownership
1108.02(b) Verification and date of execution
1108.02(c) Fees
1108.02(d) Identification of goods/services
1108.02(d)(1) Identification of collective membership organization
1108.02(e) Bona fide intention to use the mark in commerce
1108.02(f) Good cause required for extensions beyond the first six-month extension—Trademarks and service marks
1108.02(g) Good cause required for extensions beyond the first six-month extension—Collective marks
1108.02(h) Good cause required for extensions beyond the first six-month extension—Certification marks
1108.03 Only one extension request may be filed with or after a statement of use—"Insurance" extension request
1108.03(a) Processing extension request filed after statement of use has been referred to examining attorney
1108.04 Recourse after denial of extension request
1108.05 Petitions from denial of request for an extension of time to file a statement of use
1109 Statement of use under § 1(d) of the Trademark Act
1109.01 Minimum filing requirements for a statement of use
1109.02 Review for compliance with minimum filing requirements
1109.02(a) Petition to review refusal based on noncompliance with minimum filing requirements
1109.03 Use on all goods/services required before filing

1109.04 Time for filing statement of use
1109.05 Form of statement of use
1109.06 Requirements for a complete statement of use
1109.07 Examination of the statement of use—In general
1109.08 Examination of the statement of use—New requirements and refusals
1109.09 Use in commerce
1109.09(a) Dates of use
1109.09(b) Specimens
1109.10 Ownership
1109.11 Verification and execution
1109.11(a) Authority of signatory
1109.11(b) Verification of essential elements
1109.11(c) Date of execution
1109.11(d) Signature of electronically transmitted statement of use
1109.12 Drawing
1109.13 Identification of goods/services in statement of use
1109.14 Classification
1109.15 Fees
1109.15(a) Processing deficient fees
1109.16 Correcting defects in statement of use
1109.16(a) Statutory requirements that must be met within statutory filing period
1109.16(b) Issuance of examining attorney's office action holding that a statement of use does not meet the statutory requirements
1109.16(c) Requesting an extension of time to file a statement of use for the purpose of compliance with statutory filing requirements
1109.16(d) Timely response to office action required regardless of expiration date of period for filing the statement of use
1109.16(e) Applicant's recourse after refusal of registration
1109.17 Withdrawal of the statement of use prohibited
1109.18 Approval of the statement of use
1110 Request to divide an application
1110.01 Application may be divided
1110.02 Fees for filing request to divide
1110.03 Time for filing request to divide
1110.04 Form and processing of request to divide
1110.05 Outstanding time periods apply to newly created applications
1110.06 Signature of request to divide
1110.07 Dividing an application when statement of use is due
1110.08 Dividing an application when response to office action is due
1110.09 Dividing an application subject to a proceeding at trademark trial and appeal board
1110.10 Dividing a § 44 application
1110.11 Dividing a § 66(a) application
1110.11(a) Dividing a § 66(a) application after change of ownership with respect to some but not all of the goods/services
1110.12 Division of registrations

CHAPTER 1200 SUBSTANTIVE EXAMINATION OF APPLICATIONS

1201 Ownership of mark
1201.01 Claim of ownership may be based on use by related companies
1201.02 Identifying the applicant in the application
1201.02(a) Identifying the applicant properly
1201.02(b) Application Void if Wrong Party Identified as the Applicant
1201.02(c) Correcting errors in how the applicant is identified
1201.02(d) Operating divisions
1201.02(e) Changes in ownership after application is filed
1201.03 Use by related companies
1201.03(a) No explanation of use of mark by related companies or applicant's control over use of mark by related companies required
1201.03(b) Wholly owned related companies
1201.03(c) Common stockholders, directors, or officers
1201.03(d) Sister corporations
1201.03(e) License and franchise situations
1201.04 Inquiry regarding parties named on specimens or elsewhere in record
1201.05 Acceptable claim of ownership based on applicant's own use
1201.06 Special situations pertaining to ownership
1201.06(a) Applicant is merely distributor or importer
1201.06(b) Goods manufactured in a country other than where applicant is located
1201.06(c) Applicant using designation of a U.S. government agency or instrumentality
1201.07 Related companies and likelihood of confusion
1201.07(a) "Single source"—"Unity of control"
1201.07(b) Appropriate action with respect to assertion of unity of control
1201.07(b)(i) When either applicant or registrant owns all of the other entity
1201.07(b)(ii) Joint ownership or ownership of substantially all of the other entity
1201.07(b)(iii) When the record does not support a presumption of unity of control
1201.07(b)(iv) When the record contradicts an assertion of unity of control
1202 Use of subject matter as trademark
1202.01 Refusal of matter used solely as a trade name
1202.02 Registration of trade dress
1202.02(a) Functionality of trade dress
1202.02(a)(i) Statutory basis for functionality refusal
1202.02(a)(ii) Purpose of functionality doctrine
1202.02(a)(iii) Background and definitions
1202.02(a)(iii)(A) Functionality
1202.02(a)(iii)(B) "*De jure*" and "*de facto*" functionality
1202.02(a)(iv) Burden of proof in functionality determinations
1202.02(a)(v) Evidence and considerations regarding functionality determinations
1202.02(a)(v)(A) Utility patents and design patents
1202.02(a)(v)(B) Advertising, promotional, or explanatory material in functionality determinations
1202.02(a)(v)(C) Availability of alternative designs in functionality determinations

1202.02(a)(v)(D) Ease or economy of manufacture in functionality determinations
1202.02(a)(vi) Aesthetic functionality
1202.02(a)(vii) Functionality and service marks
1202.02(a)(viii) Functionality and non-traditional marks
1202.02(b) Distinctiveness of trade dress
1202.02(b)(i) Distinctiveness and product design trade dress
1202.02(b)(ii) Distinctiveness and product packaging trade dress
1202.02(c) Drawings, descriptions, and disclaimers in trade dress applications
1202.02(c)(i) Drawings of trade dress marks
1202.02(c)(i)(A) Functional matter
1202.02(c)(i)(B) Nondistinctive matter
1202.02(c)(i)(C) Drawings in § 44 and § 66(a) applications
1202.02(c)(ii) Descriptions of trade dress marks required
1202.02(c)(iii) Disclaimers of unregistrable elements of trade dress marks
1202.02(c)(iii)(A) Functional matter
1202.02(c)(iii)(B) Nondistinctive matter
1202.02(c)(iv) Three-dimensional marks
1202.02(d) Trade dress in § 1(b) applications
1202.02(e) Trade dress in § 44 and § 66(a) applications
1202.02(f) Identification of goods/services in trade dress applications
1202.02(f)(i) Product design
1202.02(f)(ii) Product packaging
1202.03 Refusal on basis of ornamentation
1202.03(a) Commercial impression
1202.03(b) Practices of the trade
1202.03(c) "Secondary source"
1202.03(d) Evidence of distinctiveness
1202.03(e) Ornamentation with respect to § 1(b), § 44, and § 66(a) applications
1202.03(f) Ornamentation: case references
1202.03(f)(i) Slogans or words used on the goods
1202.03(f)(ii) Designs used on the goods
1202.03(f)(iii) Trade dress on the containers for the goods
1202.03(g) Ornamentation cases and acquired distinctiveness
1202.04 Informational matter
1202.04(a) General information about the goods or services
1202.04(b) Widely used messages
1202.04(c) Matter from religious texts
1202.04(d) Response options
1202.05 Color as a mark
1202.05(a) Color marks generally not inherently distinctive
1202.05(b) Functional or generic color(s) not registrable
1202.05(c) Color as a separable element
1202.05(d) Drawings of color marks required
1202.05(d)(i) Drawings of color marks in trademark applications
1202.05(d)(ii) Drawings of color marks in service mark applications
1202.05(d)(iii) Amendment of drawings of color marks
1202.05(d)(iv) Drawings for marks including both color and words or design
1202.05(e) Written descriptions of color marks

1202.05(f) Specimens for color marks
1202.05(g) Special considerations for service mark applications
1202.05(h) Color marks in § 1(b) applications
1202.05(i) Color marks in § 44 or § 66(a) applications
1202.06 Goods in trade
1202.06(a) Goods must have utility to others
1202.06(b) Registration must be refused if trademark not used on goods in trade
1202.06(c) Goods in trade in § 1(b), § 44, and § 66(a) applications
1202.07 Marks that identify columns, sections, and supplements of publications
1202.07(a) Marks that identify columns, sections, and supplements of printed, downloadable, or recorded publications in § 1(a) applications
1202.07(a)(i) Syndicated columns and sections in § 1(a) applications
1202.07(a)(ii) Non-syndicated columns and sections in § 1(a) applications
1202.07(a)(iii) Marks that identify columns and sections of printed publications in § 1(b), § 44, and § 66(a) applications
1202.07(b) Marks that identify columns and sections of online publications
1202.08 Title of a single creative work
1202.08(a) What constitutes a single creative work
1202.08(b) What does not constitute a single creative work
1202.08(c) Complete title of the work—Evidence of a series
1202.08(d) Portion of a title of the work
1202.08(d)(i) Mark must create a separate commercial impression
1202.08(d)(ii) Establishing a series when the mark is a portion of the title
1202.08(d)(iii) Evidence that the portion of the title is promoted or recognized as a mark
1202.08(e) Identification of goods/services
1202.08(f) Title of a single work in § 1(b), § 44, and § 66(a) applications
1202.09 Names of artists and authors
1202.09(a) Names and pseudonyms of authors and performing artists
1202.09(a)(i) Author or performer's name—Evidence of a series
1202.09(a)(ii) Evidence that the name is a source identifier
1202.09(a)(ii)(A) Promotion and recognition of the name
1202.09(a)(ii)(B) Control over the nature and quality of the goods
1202.09(a)(iii) Names of authors and performing artists in § 1(b), § 44, and § 66(a) applications
1202.09(b) Names of artists used on original works of art
1202.10 Names and designs of characters in creative works
1202.10(a) Names and designs of characters in creative works in § 1(b), § 44, or § 66(a) applications
1202.11 Background designs and shapes
1202.12 Varietal and cultivar names (examination of applications for seeds and plants)
1202.13 Scent, fragrance, or flavor
1202.14 Holograms
1202.15 Sound marks
1202.16 Model or grade designations
1202.16(a) General information about marks with model and grade designations

1202.16(b) Identifying model and grade designations in marks
1202.16(b)(i) Model designations
1202.16(b)(i)(A) Stylization of display
1202.16(b)(i)(B) Size of proposed mark
1202.16(b)(i)(C) Physical location
1202.16(b)(ii) Grade designations
1202.16(c) Procedures for examining marks with model and grade designations
1202.16(c)(i) Evidentiary considerations when issuing model or grade designation refusals
1202.16(c)(i)(A) Model designations
1202.16(c)(i)(B) Grade designations
1202.16(c)(ii) Entire mark consists of model or grade designation in § 1(a) applications
1202.16(c)(iii) Composite mark with model or grade designation in § 1(a) applications
1202.16(c)(iii)(A) Model or grade designations with arbitrary and/or suggestive matter
1202.16(c)(iii)(B) Model or grade designations with descriptive, generic, and/or informational matter
1202.16(c)(iv) Drawing and Specimen Agreement Issues in § 1(a) Applications
1202.16(c)(v) Model or grade designation in § 1(b), § 44, or § 66(a) applications
1202.16(c)(v)(A) Model designations
1202.16(c)(v)(B) Grade designations
1202.17 Universal Symbols in Marks
1202.17(a) Relevance of universal symbols to examination
1202.17(b) Reviewing marks containing symbols
1202.17(b)(i) Identifying universal symbols in marks
1202.17(b)(ii) Marks displaying an unusual depiction of a universal symbol
1202.17(b)(iii) Marks displaying an accurate depiction of a universal symbol
1202.17(c) Failure to function
1202.17(c)(i) Determining whether a universal symbol functions as a source indicator
1202.17(c)(i)(A) Informational universal symbols
1202.17(c)(i)(B) Ornamental universal symbols
1202.17(c)(ii) Mark consists entirely of a universal symbol that fails to function
1202.17(c)(ii)(A) Applications based on sections 1(b), 44, or 66(a)
1202.17(c)(ii)(B) Applicant's response to refusal
1202.17(c)(iii) Mark includes a universal symbol that fails to function
1202.17(d) Other relevant refusals
1202.17(d)(i) Merely descriptive
1202.17(d)(ii) Deceptive or deceptively misdescriptive
1202.17(e) Universal symbols commonly appearing in marks
1202.17(e)(i) Awareness ribbon symbols
1202.17(e)(ii) Recycling symbol
1202.17(e)(iii) Caduceus, Rod of Asclepius, and prescription symbol
1202.17(e)(iv) Religious symbols
1202.17(e)(v) Currency symbols

1202.17(e)(vi) Universal prohibition symbol
1202.18 Hashtag marks
1202.18(a) Disclaiming HASHTAG or hash symbol
1202.18(b) Marks consisting solely of HASHTAG or hash symbol
1202.19 Repeating-Pattern Marks
1202.19(a) Drawing Requirements for Repeating-Pattern Marks
1202.19(a)(i) Mark Used on a Single Item
1202.19(a)(ii) Mark used in a similar manner on similar items
1202.19(a)(iii) Mark Used in Various Ways or on Various Items—Swatch-Type Drawings
1202.19(a)(iv) Drawings for Service Marks
1202.19(b) Mark Descriptions for Repeating-Pattern Marks
1202.19(c) Material Alteration of Repeating-Pattern Marks
1202.19(c)(i) Amending the Drawing to Depict a Different Object
1202.19(c)(ii) Amending a Swatch-Type Drawing to Show an Object and Vice Versa
1202.19(c)(iii) Amending the drawing to depict a different placement of the repeating pattern
1202.19(c)(iv) Amending Descriptions of Repeating-Pattern Marks
1202.19(c)(v) Amendments in Applications Based on Section 44 or Section 66(a)
1202.19(d) Specimens for repeating-pattern marks
1202.19(e) Failure-to-Function Refusal—Mark not inherently distinctive
1202.19(e)(i) Inherent Distinctiveness Determination
1202.19(e)(i)(A) Common or Widely Used Pattern
1202.19(e)(i)(B) Pattern Creates a Distinct Commercial Impression Apart from Other Matter
1202.19(e)(i)(C) Nature of Elements in the Repeating Pattern
1202.19(e)(i)(D) Industry Practice
1202.19(e)(i)(E) Type of Product
1202.19(e)(ii) Statutory Basis for Refusal
1202.19(e)(iii) Response Options
1202.19(f) Failure-to-Function Refusal—Inconsistent Goods or Services
1202.19(f)(i) Statutory Basis for Refusal
1202.19(f)(ii) Response Options
1202.19(g) Refusal—Application Seeks Registration of More than One Mark
1202.19(g)(i) Statutory Basis for Refusal
1202.19(g)(ii) Response Options
1202.19(h) Refusals in Applications Based on Section 1(b), Section 44, or Section 66(a)
1202.19(i) Functional Repeating Patterns
1202.19(j) Random Patterns
1202.19(k) Examples of Repeating-Pattern Marks
1203 Refusal on basis of deceptive matter and matter which may falsely suggest a connection
1203.01 Other refusals under 15 U.S.C. § 1052(a) no longer valid
1203.02 Deceptive matter
1203.02(a) Types of deceptive marks
1203.02(b) Elements of a § 2(a) deceptiveness refusal

1203.02(c) Distinction between marks comprising deceptive matter (§ 2(a)) and deceptively misdescriptive marks (§ 2(e)(1))
1203.02(d) Determining materiality
1203.02(d)(i) Objective criteria
1203.02(d)(ii) Mere personal preference
1203.02(e) Procedures for issuing § 2(a) deceptive refusals
1203.02(e)(i) When the mark is clearly misdescriptive
1203.02(e)(ii) When it is not clear whether the mark is misdescriptive
1203.02(f) Responding to a § 2(a) deceptiveness refusal
1203.02(f)(i) Amending the identification of goods or services
1203.02(f)(ii) Other arguments
1203.02(g) Deceptive matter: case references
1203.03 Matter that may falsely suggest a connection
1203.03(a) Definitions
1203.03(a)(i) "Persons"
1203.03(a)(ii) "Institutions"
1203.03(a)(iii) "National symbols"
1203.03(b) False suggestion of a connection
1203.03(b)(i) Elements of a § 2(a) false suggestion of a connection refusal
1203.03(b)(ii) Government agencies and instrumentalities
1203.03(b)(iii) False suggestion of a connection: case references
1204 Refusal on Basis of Flag, Coat of Arms, or Other Insignia of United States, State or Municipality, or Foreign Nation
1204.01 Flags and simulations of flags
1204.01(a) Flags and Simulations of Flags are Refused
1204.01(b) Stylized flag designs are not refused under § 2(b)
1204.01(c) Case law finding no simulation of a flag
1204.01(d) Description of the mark
1204.01(e) Flags not presently used as national flags
1204.02 Government insignia
1204.02(a) Designs that are insignia under § 2(b) must be refused
1204.02(b) Examples of insignia that should be refused
1204.02(c) Examples of designs that should not be refused under § 2(b)
1204.02(d) Caselaw interpreting insignia under § 2(b)
1204.03 Other refusals may be appropriate
1204.04 Responding to § 2(b) refusal
1204.04(a) Absolute bar to registration
1204.04(b) Deletion of § 2(b) matter
1204.04(b)(i) Examples of matter that may and may not be deleted
1204.05 Resources
1205 Refusal on basis of matter protected by statute or convention
1205.01 Statutory protection
1205.01(a) Examination procedures for marks comprising a red crystal or red crescent on a white background, or the phrases "red crescent" or "third protocol emblem"
1205.01(a)(i) First use after December 8, 2005
1205.01(a)(ii) First use on or before December 8, 2005—Grandfather clause
1205.01(a)(iii) Date of first use not specified
1205.01(a)(iv) Applicable refusals

1205.01(a)(v) Amendments to disclaim, delete, or amend the unregistrable symbol or designation
1205.01(a)(vi) Parties authorized to use the red crescent and third protocol emblem
1205.01(b) Examination procedures for marks comprising matter related to the United States Olympic Committee or the Olympics
1205.01(b)(i) Nature of the mark
1205.01(b)(ii) Issuing other substantive refusals
1205.01(b)(iii) Amendments to disclaim, delete, or amend the unregistrable wording or symbol
1205.01(b)(iv) Consent to register
1205.01(b)(v) First use on or after September 21, 1950
1205.01(b)(vi) First use before September 21, 1950—Grandfather clause
1205.01(b)(vii) Date of first use not specified
1205.01(b)(viii) Geographic-reference exception
1205.01(c) Examination procedures for marks containing Greek red cross or the Phrases "Red Cross" or "Geneva Cross"
1205.01(c)(i) Date of first use is before or after June 25, 1948
1205.01(c)(ii) Date of first use not specified
1205.01(c)(iii) Applicable refusals
1205.01(c)(iv) Amendments to disclaim, delete, or amend the unregistrable symbol or designation
1205.01(d) Examination procedures for marks containing the Swiss Confederation coat of arms or flag
1205.01(d)(i) Refusal under sections 1 and 45: Swiss coat of arms not in lawful use
1205.01(d)(i)(A) When a refusal under sections 1 and 45 must be issued
1205.01(d)(i)(B) When an advisory should be provided
1205.01(d)(i)(C) When a refusal under sections 1 and 45 should not be issued
1205.01(d)(i)(D) Applicant's response to refusal
1205.01(d)(i)(E) Refusals based on extrinsic evidence
1205.01(d)(ii) Refusal Under § 2(b): Swiss Flag or Swiss Coat of Arms
1205.01(d)(ii)(A) When a Refusal Under § 2(b) Must Be Issued
1205.01(d)(ii)(B) When an advisory should be provided
1205.01(d)(ii)(C) When a refusal under § 2(b) should not be issued
1205.01(d)(ii)(D) Applicant's response to refusal
1205.01(d)(iii) Other refusals
1205.01(d)(iv) Examples
1205.02 Article 6*ter* of the Paris convention
1205.03 Native American tribal insignia
1206 Refusal on basis of name, portrait, or signature of particular living individual or deceased U.S. president without consent
1206.01 Name, portrait, or signature of particular living individual
1206.02 Connection with goods or services
1206.03 When inquiry is required
1206.04 Consent of individual or president's widow
1206.04(a) Consent statement must be written consent to registration
1206.04(b) Consent may be presumed from signature of application
1206.04(c) New consent not required if consent is of record in valid registration owned by applicant

1206.04(d) Implicit consent
1206.05 Names and likenesses that do not identify a particular living individual
1207 Refusal on basis of likelihood of confusion, mistake, or deception
1207.01 Likelihood of confusion
1207.01(a) Relatedness of the goods or services
1207.01(a)(i) Goods or services need not be identical
1207.01(a)(ii) Establishing relatedness of goods to services
1207.01(a)(ii)(A) Food and beverage products versus restaurant services
1207.01(a)(iii) Reliance on identification of goods/services in registration and application
1207.01(a)(iv) No "per se" rule
1207.01(a)(v) Expansion-of-trade doctrine
1207.01(a)(vi) Evidence showing relatedness of goods or services
1207.01(b) Similarity of the marks
1207.01(b)(i) Word marks
1207.01(b)(ii) Similarity in appearance
1207.01(b)(iii) Comparing marks that contain additional matter
1207.01(b)(iv) Similarity in Sound - Phonetic Equivalents
1207.01(b)(v) Similarity in meaning
1207.01(b)(vi) Doctrine of Foreign Equivalents—General
1207.01(b)(vi)(A) Doctrine of Foreign Equivalents - Likelihood of Confusion
1207.01(b)(vi)(B) Likelihood of Confusion Factors Still Apply When Assessing Whether Marks are Confusingly Similar
1207.01(b)(vii) Transposition of terms
1207.01(b)(viii) Marks consisting of multiple words
1207.01(b)(ix) Weak or descriptive marks
1207.01(b)(x) Parody marks
1207.01(b)(xi) Color Marks
1207.01(c) Design marks
1207.01(c)(i) Legal equivalents—Comparison of words and their equivalent designs
1207.01(c)(ii) Composite marks consisting of both words and designs
1207.01(c)(iii) Comparison of standard character marks and special form marks
1207.01(c)(iv) Matter depicted in broken lines
1207.01(d) Miscellaneous considerations
1207.01(d)(i) Doubt resolved in favor of registrant
1207.01(d)(ii) Absence of actual confusion
1207.01(d)(iii) Third-Party registrations and evidence of third-party use
1207.01(d)(iv) Collateral Attack on Registration Improper in Ex Parte Proceeding
1207.01(d)(v) Classification of goods/services
1207.01(d)(vi) Prior decisions of examining attorneys
1207.01(d)(vii) Sophisticated purchasers
1207.01(d)(viii) Consent Agreements
1207.01(d)(ix) Fame of the prior registered mark
1207.01(d)(x) Conflicting marks owned by different parties
1207.01(d)(xi) Family of marks
1207.01(d)(xii) Pharmaceuticals or medicinal products

1207.02 Marks that are likely to deceive
1207.03 Marks previously used in united states but not registered
1207.04 Concurrent use registration
1207.04(a) Concurrent use—In general
1207.04(b) Criteria for requesting concurrent use registration for concurrent use registration pursuant to court decree
1207.04(c) Criteria for requesting concurrent use registration
1207.04(d) Requirements for all concurrent use applications
1207.04(d)(i) Concurrent Use Application for a Trademark or Service Mark
1207.04(d)(ii) Concurrent Use Application for a Collective or Certification Mark
1207.04(e) Applications subject to concurrent use proceeding before the trademark trial and appeal board
1207.04(e)(i) Preparing the record for publication
1207.04(f) Application for concurrent use registration pursuant to court decree
1207.04(f)(i) Preparing the record for publication
1207.04(g) Application for concurrent use registration based on final board decision in prior concurrent use proceeding
1207.04(g)(i) Preparing the record for publication
1208 Conflicting marks in pending applications
1208.01 Priority for publication or issue based on effective filing date
1208.01(a) What constitutes conflict between pending applications
1208.01(b) What constitutes effective filing date
1208.01(c) Change in effective filing date during examination
1208.01(d) Examination of conflicting marks after reinstatement or revival
1208.02 Conflicting applications examination procedure
1208.02(a) Examination of application with earliest effective filing date
1208.02(b) Action on later-filed application: giving notice of the earlier application or applications
1208.02(c) Suspension of later-filed application
1208.02(d) Action on later-filed application upon disposition of the earlier application or applications
1208.02(e) Applicant's argument on issues of conflict
1208.02(f) Conflicting mark mistakenly published or approved for issuance on the supplemental register
1208.03 Procedure relating to possibility of interference
1208.03(a) Procedures on request for interference
1208.03(b) Decision on Request for Interference
1208.03(c) Procedure when interference is to be declared
1209 Refusal on basis of descriptiveness
1209.01 Distinctiveness/descriptiveness continuum
1209.01(a) Fanciful, arbitrary, and suggestive marks
1209.01(b) Merely descriptive marks
1209.01(c) Generic terms
1209.01(c)(i) Test for genericness
1209.01(c)(ii) Terminology
1209.01(c)(iii) Generic Matter: Case References
1209.02 Procedure for descriptiveness and/or genericness refusal
1209.02(a) Descriptive marks—Advisory statement that mark appears to be generic

1209.02(a)(i) Amendment to supplemental register in response to office action
1209.02(a)(ii) Assertion of § 2(f) in response to office action
1209.02(b) Descriptive and possibly generic marks—Assertion of § 2(f) in application
1209.03 Considerations relevant to determination of descriptiveness or genericness
1209.03(a) Third-Party Registrations
1209.03(b) Dictionary listing
1209.03(c) First or only user
1209.03(d) Combined terms
1209.03(e) More than one meaning
1209.03(f) Picture or illustration
1209.03(g) Doctrine foreign equivalents
1209.03(h) Abbreviations, Acronyms, Initialisms
1209.03(i) Intended users
1209.03(j) Phonetic equivalent
1209.03(k) Laudatory terms
1209.03(l) Telephone numbers
1209.03(m) Domain names
1209.03(n) "America" or "American"
1209.03(o) "National," "international," "global," and "worldwide"
1209.03(p) Function or purpose
1209.03(q) Source or provider of goods or services
1209.03(r) Generic Goods Descriptive of Retail Store/Distributorship Services or Restaurant/Café Services
1209.03(s) Slogans
1209.03(t) Repetition of descriptive or generic term
1209.03(u) Punctuation
1209.03(v) Key Aspect or Subcategory of Goods or Services
1209.03(w) Stylization
1209.03(x) Historical figure names and fictional character names
1209.03(y) Marks including geographic wording that does not indicate geographic origin of cheeses and processed meats
1209.04 Deceptively misdescriptive marks
1210 Refusal on basis of geographic significance
1210.01 Elements
1210.01(a) Geographically descriptive marks—Test
1210.01(b) Geographically deceptively misdescriptive marks — Test
1210.01(c) Geographically deceptive marks—Test
1210.02 Primarily geographic significance
1210.02(a) Geographic locations
1210.02(b) Primary significance
1210.02(b)(i) Other meanings
1210.02(b)(i)(A) Surname significance
1210.02(b)(ii) More than one geographic location with same name
1210.02(b)(iii) Non-geographic characteristics of goods or services
1210.02(b)(iv) "America" or "American" and similar terms in marks
1210.02(c) Geographic terms combined with additional matter
1210.02(c)(i) Two geographic terms combined
1210.02(c)(ii) Geographic terms combined with descriptive or generic matter

1210.02(c)(iii) Arbitrary, fanciful, or suggestive composites
1210.03 Geographic origin of the goods or services
1210.04 Goods/place or services/place association
1210.04(a) Establishing goods/place association
1210.04(b) Establishing services/place association
1210.04(c) Obscure or remote geographic marks
1210.04(d) Arbitrary use of geographic terms
1210.05 Geographically deceptive marks
1210.05(a) Basis for refusal
1210.05(b) Elements of a § 2(e)(3) refusal
1210.05(c) Determining materiality
1210.05(c)(i) Materiality in cases involving goods
1210.05(c)(ii) Materiality in cases involving services
1210.05(d) Procedures for issuing geographically deceptive refusals
1210.05(d)(i) Neither applicant nor goods/services come from the place named
1210.05(d)(ii) It is not clear whether the goods/services originate from the place named
1210.05(e) Geographically deceptive matter: case references
1210.06 Procedure for examining geographic composite marks
1210.06(a) Marks that include primarily geographically descriptive terms combined with additional matter
1210.06(b) Marks that include primarily geographically deceptively misdescriptive and deceptive terms combined with additional matter
1210.07 Supplemental register and section 2(f)
1210.07(a) Registrability of geographic terms on the supplemental register
1210.07(b) Registrability of geographic terms under section 2(f)
1210.08 Geographical indications used on wines and spirits
1210.08(a) Geographical indications used on wines and spirits that do not originate in the named place
1210.08(b) Geographical indications used on wines and spirits that originate in the named place
1210.08(c) Geographical indications that are generic for wines and spirits
1210.09 Geographic certification marks
1210.10 Doctrine of foreign equivalents—Geographic significance
1211 Refusal on basis of surname
1211.01 “Primarily merely a surname”
1211.01(a) Non-surname significance
1211.01(a)(i) Ordinary language meaning
1211.01(a)(ii) Phonetic equivalent of term with ordinary language meaning
1211.01(a)(iii) Geographical significance
1211.01(a)(iv) Historical place or person
1211.01(a)(v) Rare surnames
1211.01(a)(vi) “Structure and Pronunciation” of a surname
1211.01(a)(vii) Doctrine of foreign equivalents
1211.01(b) Surname combined with additional matter
1211.01(b)(i) Double surnames
1211.01(b)(ii) Stylization or design elements
1211.01(b)(iii) Surname combined with initials

1211.01(b)(iv) Surname combined with title
1211.01(b)(v) Surname in plural or possessive form
1211.01(b)(vi) Surname combined with additional wording
1211.01(b)(vii) Surname combined with domain name
1211.01(b)(viii) Surname combined with legal or familial entity designation
1211.02 Evidence relating to surname refusal
1211.02(a) Evidentiary burden—Generally
1211.02(b) Evidentiary considerations
1211.02(b)(i) Telephone directory listings
1211.02(b)(ii) Lexisnexis® research database evidence
1211.02(b)(iii) U.S. Census database evidence
1211.02(b)(iv) Surname of person associated with applicant
1211.02(b)(v) Specimens confirming surname significance of term
1211.02(b)(vi) Negative dictionary evidence
1211.02(b)(vii) Evidence of fame of a mark
1212 Acquired distinctiveness or secondary meaning
1212.01 General evidentiary matters
1212.02 General procedural matters
1212.02(a) Situations in which a claim of distinctiveness under § 2(f) is appropriate
1212.02(b) Section 2(f) claim is, for procedural purposes, a concession that matter is not inherently distinctive
1212.02(c) Claiming § 2(f) distinctiveness in the alternative
1212.02(d) Unnecessary § 2(f) claims
1212.02(e) Disclaimers in applications claiming distinctiveness under § 2(f)
1212.02(f) Section 2(f) claim in part
1212.02(f)(i) Standards for establishing acquired distinctiveness for claims of § 2(f) in part
1212.02(f)(ii) Appropriate/inappropriate situations for claiming § 2(f) in part
1212.02(f)(ii)(A) Appropriate situations for claiming § 2(f) in part
1212.02(f)(ii)(B) Inappropriate situations for claiming § 2(f) in part
1212.02(g) Examining attorney's role in suggesting § 2(f) or appropriate kind/amount of evidence
1212.02(h) Nonfinal and final refusals
1212.02(i) Section 2(f) claim with respect to incapable matter
1212.02(j) Section 2(f) claim restricted to particular goods/services/classes
1212.03 Three types of evidence of distinctiveness under § 2(f)
1212.04 Prior registrations as proof of distinctiveness
1212.04(a) Sufficiency of claim vis-à-vis nature of the mark
1212.04(b) "Same mark"
1212.04(c) Goods or Services Must be "Sufficiently Similar"
1212.04(d) Registration must be in full force and effect and on principal register or under act of 1905
1212.04(e) Form of § 2(f) claim based on ownership of prior registrations
1212.05 Five years of use as proof of distinctiveness
1212.05(a) Sufficiency of Claim Vis-à-Vis Nature of the Mark
1212.05(b) "Substantially exclusive and continuous"
1212.05(c) Use "as a mark"
1212.05(d) Form of the proof of five years' use

1212.06 Establishing distinctiveness by actual evidence
1212.06(a) Long use of the mark in commerce
1212.06(b) Advertising expenditures
1212.06(c) Affidavits or declarations asserting recognition of mark as source indicator
1212.06(d) Survey evidence, market research and consumer reaction studies
1212.06(e) Miscellaneous considerations regarding evidence submitted to establish distinctiveness
1212.06(e)(i) First or only user
1212.06(e)(ii) State trademark registrations
1212.06(e)(iii) Design patent
1212.06(e)(iv) Acquiescence to demands of competitors
1212.06(e)(v) Family of marks
1212.06(e)(vi) Parodies and copies
1212.07 Form of application asserting distinctiveness
1212.08 Section 44 and § 66(a) applications and distinctiveness
1212.09 Section 1(b) applications and distinctiveness
1212.09(a) Section 2(f) claim requires prior use
1212.09(b) Claim of § 2(f) "in Part" in § 1(b) Applications
1212.10 Printing § 2(f) notations, § 2(f)-in-part notations, and limitation statements
1213 Disclaimer of elements in marks
1213.01 History of disclaimer practice
1213.01(a) Discretion in requiring disclaimer
1213.01(b) Refusal to register because of failure to disclaim
1213.01(c) Voluntary disclaimer of registrable or unregistrable matter
1213.01(d) Disclaimer Offered in the Alternative
1213.02 "Composite" marks
1213.03 Disclaimer of unregistrable components of marks
1213.03(a) "Unregistrable components" in general
1213.03(b) Generic matter and matter that does not function as a mark
1213.03(c) Pictorial representations of descriptive matter
1213.03(d) Entity designations
1213.04 Trade names
1213.05 Unitary marks
1213.05(a) Compound word marks
1213.05(a)(i) Telescoped words
1213.05(a)(ii) Compound words formed with hyphen or other punctuation
1213.05(b) Unitary phrases
1213.05(b)(i) Slogans
1213.05(b)(ii) Grammar and punctuation
1213.05(b)(ii)(A) Verbs
1213.05(b)(ii)(B) Prepositional phrases
1213.05(b)(ii)(C) Punctuation
1213.05(b)(ii)(D) Possessives
1213.05(b)(iii) Other considerations
1213.05(b)(iv) Unregistrable unitary phrases or slogans
1213.05(c) Double entendre
1213.05(d) Incongruity
1213.05(e) Sound patterns
1213.05(f) Display of mark

1213.05(g) Marks with design elements replacing letters
1213.05(g)(i) Marks with a distinctive design replacing a letter in descriptive or generic wording
1213.05(g)(ii) Marks with merely descriptive or primarily geographically descriptive designs replacing letters within descriptive or primarily geographically descriptive wording
1213.05(g)(iii) Marks with accurate pictorial representations replacing letters in merely descriptive and primarily geographically descriptive marks
1213.05(g)(iv) Unitary marks with design elements replacing letters in descriptive or generic wording
1213.05(h) Unitary marks: case references
1213.06 Entire mark may not be disclaimed
1213.07 Removal rather than disclaimer
1213.08 Form of disclaimers
1213.08(a) Wording of disclaimer
1213.08(a)(i) Standardized printing format for disclaimer
1213.08(a)(ii) Unacceptable wording for disclaimer
1213.08(a)(iii) Unacceptable statements in disclaimers
1213.08(b) Disclaimer of unregistrable matter in its entirety
1213.08(c) Disclaimer of misspelled words
1213.08(d) Disclaimer of non-English words
1213.09 Mark of another may not be registered with disclaimer
1213.10 Disclaimer in relation to likelihood of confusion
1213.11 Acquiring rights in disclaimed matter
1214 "Phantom" elements in marks
1214.01 Single application may seek registration of only one mark
1214.02 Agreement of mark on drawing with mark on specimens or foreign registration
1214.03 "Phantom marks" in § 1(b) applications
1214.04 "Phantom marks" in § 44 and § 66(a) applications
1215 Marks composed, in whole or in part, of domain names
1215.01 Background
1215.02 Use as a mark
1215.02(a) Use applications
1215.02(b) Advertising one's own products or services on the Internet is not a service
1215.02(c) Agreement of mark on drawing with mark on specimens of use
1215.02(d) Marks comprised solely of gTLDs for domain registry operator and domain name registrar services
1215.02(d)(i) Prior registration(s) of the same mark for goods or services in the same field of use
1215.02(d)(ii) Additional proof that the mark used as a gTLD will be perceived as a mark
1215.02(d)(iii) Registry Agreement/ICANN contract
1215.02(d)(iv) Legitimate service for the benefit of others
1215.02(e) Section 1(b) applications
1215.02(f) Section 44 and § 66(a) applications
1215.03 Surnames
1215.04 Descriptiveness
1215.05 Generic refusals
1215.05(a) Genericness analysis and relevant evidence

1215.05(b) Procedures for refusals
1215.05(b)(i) Claim of acquired distinctiveness
1215.05(b)(ii) Supplemental register
1215.05(c) generic.com terms combined with other matter
1215.05(d) Failure to function
1215.05(e) Section 2(d) considerations
1215.06 Marks containing geographical matter
1215.07 Disclaimers
1215.08 Material alteration
1215.08(a) Adding or deleting TLDs in domain name marks
1215.08(b) Adding or deleting gTLDs in other marks
1215.08(c) Adding or deleting "." in marks for domain registry operator or domain name registrar services
1215.09 Likelihood of confusion
1215.10 Marks containing the phonetic equivalent of a generic top-level domain
1216 Effect of applicant's prior registrations
1216.01 Decisions involving prior registrations not controlling
1216.02 Effect of "incontestability" in ex parte examination
1217 Res judicata, collateral estoppel, and stare decisis

CHAPTER 1300 SERVICE MARKS, COLLECTIVE MARKS, AND CERTIFICATION MARKS

1301 Service marks
1301.01 What is a service?
1301.01(a) Criteria for determining what constitutes a service
1301.01(a)(i) Performance of a real activity
1301.01(a)(ii) For the benefit of others
1301.01(a)(iii) Sufficiently distinct from activities involved in provision of goods or performance of other services
1301.01(b) Whether particular activities constitute "services"
1301.01(b)(i) Contests and promotional activities
1301.01(b)(ii) Warranty or guarantee of repair
1301.01(b)(iii) Publishing one's own periodical
1301.01(b)(iv) Soliciting investors
1301.01(b)(v) Informational services ancillary to the sale of goods
1301.01(b)(vi) Clinical trials
1301.02 What is a service mark?
1301.02(a) Matter that does not function as a service mark
1301.02(b) Names of characters or personal names as service marks
1301.02(c) Three-dimensional service marks
1301.02(d) Titles of radio and television programs
1301.02(e) Process, system, or method
1301.02(f) Computer software
1301.03 Use of service mark in commerce
1301.03(a) Use of service mark in advertising to identify services
1301.03(b) Rendering of service in commerce regulable by congress
1301.04 Specimens of use for service marks
1301.04(a) Whether the specimen shows the mark as actually used in commerce by the applicant in the sale or advertising of the services

1301.04(b) Whether the identified services are registrable services
1301.04(c) Whether the specimen shows use in connection with all classes in a multiple-class application
1301.04(d) Whether the mark is used in connection with the identified services
1301.04(e) Whether the mark functions as a service mark
1301.04(f) Elements of an acceptable service-mark specimen
1301.04(f)(i) Show the mark
1301.04(f)(ii) Direct association between the mark and the services
1301.04(g) Grounds for refusal
1301.04(g)(i) Failure to show the mark used in commerce
1301.04(g)(ii) Failure to show the mark functioning as a service mark
1301.04(h) Considerations and common issues when examining certain specimens
1301.04(h)(i) Letterhead
1301.04(h)(ii) Specimens for entertainment services
1301.04(h)(iii) Specimens for technology-related services
1301.04(h)(iv) Common forms of specimens for modern technology-related services
1301.04(h)(iv)(A) Sign-in screens
1301.04(h)(iv)(B) Title or launch screens
1301.04(h)(iv)(C) Web pages
1301.04(h)(iv)(D) Services rendered by means of software applications (apps)
1301.04(i) Examples of acceptable service-mark specimens
1301.04(j) Examples of unacceptable service-mark specimens
1301.05 Identification and classification of services
1302 Collective marks generally
1302.01 Brief history of collective marks
1303 Collective trademarks and collective service marks generally
1303.01 Application requirements for a collective trademark or collective service mark
1303.01(a) Filing basis
1303.01(a)(i) Use in commerce—§ 1(a)
1303.01(a)(i)(A) Manner/method of control
1303.01(a)(i)(B) Dates of use
1303.01(a)(i)(C) Specimens
1303.01(a)(ii) Intent to Use—§ 1(b)
1303.01(a)(iii) Foreign priority—§ 44(d)
1303.01(a)(iv) Foreign Registration—§ 44(e)
1303.01(a)(iv)(A) Scope of Foreign Registration
1303.01(a)(v) Extension of protection of international registration—§ 66(a)
1303.01(a)(vi) Multiple bases, amending/deleting the basis, review of basis prior to publication/issue
1303.01(b) Verification of Certain Statements
1303.01(b)(i) Statements required in verification of application for registration—§ 1 or § 44 application
1303.01(b)(ii) Statements Required in Verification of Application for Registration—§ 66(a) Application
1303.02 Examination of collective trademark and collective service mark applications
1303.02(a) Ownership considerations
1303.02(b) Likelihood of confusion

1304 Collective membership marks generally
1304.01 Collective membership marks generally
1304.02 Application requirements for collective membership marks
1304.02(a) Filing Basis
1304.02(a)(i) Use in commerce—§ 1(a)
1304.02(a)(i)(A) Manner/Method of Control
1304.02(a)(i)(B) Dates of use
1304.02(a)(i)(C) Specimens
1304.02(a)(ii) Intent to Use—§ 1(b)
1304.02(a)(iii) Foreign Priority—§ 44(d)
1304.02(a)(iv) Foreign Registration—§ 44(e)
1304.02(a)(iv)(A) Scope of Foreign Registration
1304.02(a)(v) Extension of Protection of International Registration—§ 66(a)
1304.02(a)(vi) Multiple bases, amending/deleting the basis, review of basis prior to publication/issue
1304.02(b) Verification of Certain Statements
1304.02(b)(i) Statements Required in Verification of Application for Registration—§ 1 or § 44 Application
1304.02(b)(ii) Statements Required in Verification of Application for Registration—§ 66(a) Application
1304.02(c) Identification of Nature of Collective Membership Organization
1304.02(d) Classification
1304.03 Examination of collective membership mark applications
1304.03(a) Ownership Considerations
1304.03(b) Specimen Refusals Specific to Collective Membership Marks
1304.03(b)(i) Matter that Does Not Function as a Membership Mark
1304.03(b)(ii) Degree or Title Designations
1304.03(c) Likelihood of Confusion
1304.03(d) False suggestion of a connection
1305 Trademarks and service marks used by collective organizations
1306 Certification marks
1306.01 Types of certification marks
1306.01(a) Use is by person other than owner of certification mark
1306.01(b) Purpose is to certify, not to indicate source
1306.01(c) Identifying Certification Mark Applications
1306.02 Application requirements for a certification mark
1306.02(a) Filing Basis
1306.02(a)(i) Use in commerce—§ 1(a)
1306.02(a)(i)(A) Dates of use
1306.02(a)(i)(B) Specimens
1306.02(a)(ii) Intent to Use—§ 1(b)
1306.02(a)(iii) Foreign priority—§ 44(d)
1306.02(a)(iv) Foreign registration—§ 44(e)
1306.02(a)(iv)(A) Scope of Foreign Registration
1306.02(a)(v) Extension of Protection of International Registration—§ 66(a)
1306.02(a)(vi) Multiple bases, amending/deleting the basis, review of basis prior to publication/issue

1306.02(b) Verification of certain statements
1306.02(b)(i) Statements Required in Verification of Application for Registration - § 1 or § 44 Application
1306.02(b)(ii) Statements Required in Verification of Application for Registration—§ 66(a) Application
1306.02(c) Identification of goods and services of the authorized users
1306.02(d) Classification
1306.03 Special Elements of Certification Mark Applications
1306.03(a) Certification Statement
1306.03(b) Certification standards—Required for § 1(a) applications and allegations of use only
1306.03(c) Statement that Applicant Is Not Engaged in (or Will not Engage in) Production or Marketing of the Goods/Services
1306.04 Examination of certification mark applications
1306.04(a) Compare the Mark on the Drawing to the Specimen for § 1(a)
1306.04(b) Ownership
1306.04(b)(i) Exercise of Control
1306.04(b)(ii) Distinguishing Certification Mark Use from Related-Company Use of Trademark or Service Mark
1306.04(b)(iii) Patent Licenses
1306.04(c) Characteristics of Certification Marks—Specimen Shows Mark Functions as a Certification Mark
1306.04(d) Specimen Refusals Specific to Certification Marks
1306.04(d)(i) Whether certification mark and trademark or service mark appear on specimen together
1306.04(d)(ii) Specimen Shows Use as Title or Degree for Certification Mark Certifying that Labor Was Performed by Specific Group or Individual
1306.04(e) Relationship of § 14 (Cancellation)
1306.04(f) Same Mark Not Registrable as Certification Mark and as Any Other Type of Mark
1306.04(f)(i) Cancellation of Applicant's Prior Registration Required by Change from Certification Mark Use to Trademark or Service Mark Use, or Vice Versa
1306.05 Geographic certification marks that are indications of regional origin
1306.05(a) Geographic Certification Marks—Generally
1306.05(b) Additional considerations in geographic certification mark applications
1306.05(b)(i) Certification statement
1306.05(b)(ii) Authority to control a geographic certification mark
1306.05(b)(iii) Specimens
1306.05(c) Mark must serve to certify geographic origin
1306.05(d) Section 2(e)(2) does not apply to geographic certification marks
1306.05(e) Geographically deceptive marks not registrable as geographic certification marks
1306.05(f) Geographic designations that do not certify regional origin
1306.05(g) Likelihood-of-confusion search and analysis
1306.05(g)(i) Considerations when the proposed mark is a geographic certification mark
1306.05(g)(ii) Considerations when the proposed mark contains a geographic designation but is not a geographic certification mark
1306.05(h) American Viticultural Areas
1306.05(i) Certification marks containing § 2(b) matter

1306.05(j) Examples of geographic certification marks
1306.06 Uncertainty regarding type of mark
1306.06(a) Distinction between certification mark and collective mark
1306.06(b) Amendment to different type of mark
1306.06(c) Registration as correct type of mark
1307 Relation between certification mark and trademark or service mark on specimens

CHAPTER 1400 CLASSIFICATION AND IDENTIFICATION OF GOODS AND SERVICES

1401 Classification
1401.01 Statutory authority
1401.02 International trademark classification adopted
1401.02(a) Headings of International Trademark Classes
1401.02(b) Short titles for international trademark classes
1401.02(c) International alphabetical list
1401.03 Designation of class
1401.03(a) Designation of class by applicant normally initially accepted in applications under §§ 1 and 44
1401.03(b) Designation of class by USPTO when class number is not designated or is inaccurate in application under § 1 or § 44
1401.03(c) Failure to classify may delay action in applications under §§ 1 and 44
1401.03(d) Classification determined by world intellectual property organization in § 66(a) applications
1401.04 Classification determines number of fees
1401.04(a) Prior United States classification system
1401.04(b) Limiting goods and services to the number of classes for which filing fees are paid
1401.05 Criteria on which international classification is based
1401.05(a) Identification and Classification of Kits, Gift Baskets, and Items Sold as a Unit
1401.05(b) Medical vs. non-medical goods
1401.05(c) Classification and Plurality of Uses
1401.05(d) Identification and classification of "systems"
1401.05(e) Identification and classification of "food additives"
1401.06 Specimen(s) as related to classification
1401.07 Specimen discloses special characteristics
1401.08 Classification and the identification of goods and services
1401.09 Implementation of changes to the Nice Agreement
1401.10 Effective date of changes to USPTO ID manual
1401.10(a) Effective Date of USPTO ID Manual Entries for Applications Filed Under § 66(a)
1401.11 Changes in practice based on the restructuring of International Class 42 in the 8th edition of the Nice Agreement
1401.11(a) Elimination of "Miscellaneous Class Designation"
1401.12 General summary of major changes in practice based on the 9th edition of the Nice Agreement
1401.12(a) Legal Services Transferred to International Class 45
1401.12(b) Goods made of precious metal are classified according to their function
1401.12(c) Transfer of aquaria and related items

1401.13 General summary of major changes in practice based on the 10th edition of the nice agreement
1401.13(a) Electronic/electrothermic goods
1401.13(b) Amusement and game-playing apparatus
1401.13(c) Food additives
1401.13(d) Dietetic Substances and Meal Replacements
1401.13(e) Marketing services
1401.14 General summary of major changes in practice based on the 11th Edition of the Nice Agreement
1401.14(a) Cosmetic and toiletry preparations and soaps
1401.14(b) Household or kitchen serving utensils and small hand-operated kitchen apparatus for mincing, grinding, pressing, or crushing
1401.14(c) Dietetic food and beverages adapted for medical or veterinary use
1401.14(d) Nut and plant milks; milk substitutes
1401.14(e) Security Services in Class 42 and Class 45
1401.14(f) Ivory, bone, whalebone, horn, tusks, or other items prohibited under federal law
1401.15 General summary of major changes in practice based on the 12th edition of the nice agreement
1401.15(a) Dispensers
1401.15(b) Non-fungible Tokens (NFTs)
1401.15(c) Virtual Services
1401.15(d) Virtual Goods
1401.15(e) Biomanufacturing
1401.16 General Summary of Major Changes in Practice Based on the 13th Edition of the Nice Agreement
1401.16(a) Eyeglasses, Spectacles, Sunglasses, and Contact Lenses
1401.16(b) Essential Oils
1401.16(c) Emergency and Rescue Vehicles
1402 Identification of goods and services
1402.01 Specifying the goods and/or services—In general
1402.01(a) General guidelines for acceptable identifications of goods or services
1402.01(b) Identification of goods and services in a § 44 application
1402.01(c) Identification and Classification of Goods and Services in a § 66(a) Application
1402.01(d) Location of "identification of goods and services"
1402.01(e) Responsibilities of examining attorney as to identification
1402.02 Entitlement to filing date with respect to identification of goods and services
1402.03 Specificity of terms used in identifying goods and services
1402.03(a) Inclusive Terminology
1402.03(b) House marks
1402.03(c) Marks for a "full line of . . ."
1402.03(d) Identifying recorded or downloadable computer programs and software
1402.03(e) Identifying Printed, Downloadable, or Recorded Publications with Specificity
1402.03(f) Recognition of industry terms
1402.03(g) Name and/or acronym of trademark protection system or scheme for geographical indication appearing in identification
1402.04 Acceptable identification of goods and services manual

1402.05 Accuracy of identification
1402.05(a) Goods that are components or ingredients
1402.05(b) Material Composition
1402.06 Amendments permitted to clarify or limit identification
1402.06(a) Limiting the identification of goods and services
1402.06(b) Clarifying the identification of goods and services
1402.07 Scope of identification of goods and services for purposes of amendment
1402.07(a) The "Ordinary-Meaning" Test
1402.07(b) Ambiguous identifications
1402.07(c) Unambiguous identifications
1402.07(d) Permissible scope of identification not affected by proposed amendment that is unacceptable
1402.07(e) Permissible scope of identification affected by proposed amendment that is acceptable
1402.08 Moving goods and services between companion applications
1402.09 Use of marks or terms "applicant" and "registrant" inappropriate in identifications
1402.10 Identification of goods and services in documents filed in connection with § 1(b) applications
1402.11 Identification of services
1402.11(a) Computer services
1402.11(a)(i) Services classified in Classes 35, 36, 37, 39, 40, 41, 43, 44, and 45
1402.11(a)(ii) Content providers
1402.11(a)(iii) Provision of Telecommunications Connections to the Internet
1402.11(a)(iv) Office-Function-Type and Computerized Web Traffic Services
1402.11(a)(v) Computer installation and repair services
1402.11(a)(vi) Retail Services
1402.11(a)(vii) Computer entertainment services
1402.11(a)(viii) Computer design and development services
1402.11(a)(ix) Database Services
1402.11(a)(x) Online publications
1402.11(a)(xi) Electronic storage, hosting of data, and cloud computing
1402.11(a)(xii) Non-downloadable computer software
1402.11(b) Information services
1402.11(c) Association services
1402.11(d) Charitable services, other than monetary
1402.11(e) Consulting services
1402.11(f) Distribution of videotapes, audiotapes, videodiscs, and similar goods
1402.11(g) Recorded entertainment services
1402.11(h) Identification of "bonus programs"
1402.11(i) Marketing services and advertising services
1402.11(j) Issuing awards
1402.11(k) Accreditation- and Certification-Related Services vs. Certification Marks
1402.12 Parentheses and brackets should not be used in identifications of goods and services
1402.13 Requirement for amendment of portion of identification of goods/services
1402.14 Identification of goods/services must conform to rules and policies in effect at the time registration is sought

1402.15 Procedures for processing unacceptable amendments to identifications
1403 Combined or multiple-class application
1403.01 Requirements for combined or multiple-class applications
1403.02 Amendment of combined or multiple-class application
1403.02(a) Deletion of classes
1403.02(b) Correction of classification
1403.02(c) Addition of classes
1403.03 Dividing of combined or multiple-class application
1403.04 Refusals and oppositions as to less than all the classes in a multiple-class application
1403.05 Fees for action after filing, multiple classes
1403.06 Surrender or amendment in multiple-class registrations

Volume 2

CHAPTER 1500 POST-EXAMINATION PROCEDURES

1501 Appeal to trademark trial and appeal board
1501.01 Appealable matter
1501.02 Appeal briefs
1501.02(a) Applicant's appeal brief
1501.02(b) Examining Attorney's Appeal Brief
1501.02(c) Reply briefs in ex parte appeals
1501.03 Withdrawal of refusal or requirement after appeal
1501.04 Fee for appeal
1501.05 Amendment during appeal
1501.06 Amendment after decision on appeal
1501.07 Examining attorney's request for reconsideration
1502 Publication in *Trademark Official Gazette*
1502.01 Notification of clerical errors in trademark official gazette
1503 Opposition
1503.01 Filing a Notice of Opposition
1503.02 Joining persons in an opposition
1503.03 Time for opposing
1503.04 Extension of Time to Oppose
1503.05 Opposition to § 66(a) applications
1504 Jurisdiction over application
1504.01 Jurisdiction of examining attorney
1504.02 Jurisdiction of trademark trial and appeal board
1504.03 Action by examining attorney after publication
1504.04 Restoration of jurisdiction to examining attorney by director
1504.04(a) Request for jurisdiction
1504.05 Remand to examining attorney by trademark trial and appeal board
1505 Amendments filed by applicants after publication
1505.01 Procedures for processing amendments filed by the applicant after publication
1505.01(a) Requirement for representation, and form and timing of amendments
1505.01(b) Processing amendments to §§ 1(a), 44, and 66(a) applications in cases where no opposition has been filed and a registration certificate has not yet issued

1505.01(b)(i) Acceptable amendments
1505.01(b)(ii) Unacceptable amendments
1505.01(c) Processing amendments to § 1(b) applications in cases where no opposition has been filed and no notice of allowance has issued
1505.01(c)(i) Acceptable amendments
1505.01(c)(ii) Unacceptable amendments
1505.01(d) Processing amendments filed between issuance of the notice of allowance and filing of statement of use
1505.01(e) Processing amendments in cases where a request for extension of time to oppose has been filed or granted
1505.01(f) Processing amendments in cases where an opposition has been filed
1505.02 Types of amendments after publication
1505.02(a) Amendments to the identification
1505.02(b) Amendments to classification
1505.02(c) Amendments to marks
1505.02(d) Amendments to the dates of use
1505.02(e) Amendments adding or deleting disclaimers
1505.02(f) Amendment of the basis
1505.02(g) Amendments to the applicant's name, citizenship, or entity type
1505.03 Republication for opposition
1505.03(a) When republication is required
1505.03(b) When republication is not required
1506 Concurrent use registration proceeding
1507 Interference

CHAPTER 1600 REGISTRATION AND POST REGISTRATION PROCEDURES

1601 Types of registrations
1601.01 Registrations now being issued
1601.01(a) Certificate of registration
1601.01(b) Presentation copy of registration certificate
1601.01(c) Registered extension of protection of international registration to the United States
1601.02 Repeal of prior Acts
1601.03 Additional registration under Act of 1946
1601.04 1881 and 1905 Act registrations
1601.05 1920 Act registrations
1601.06 Registrations issued under prior classification systems
1601.07 Form of copies of registrations
1602 Duration and maintenance of registrations
1602.01 Act of 1946, as Amended
1602.02 Acts of 1881 and 1905
1602.03 Act of 1920
1602.04 Trademark Law Treaty Implementation Act Changes
1603 Bringing prior Act registrations under 1946 Act, § 12(c)
1603.01 Notification and publication of mark in *Trademark Official Gazette*
1603.02 Cancellation and incontestability
1603.03 Affidavits or declarations of use in commerce required

1604 Affidavit or declaration of use or excusable nonuse of mark in commerce under § 8 of the Trademark Act
1604.01 Registrations to which § 8 affidavit or declaration pertains
1604.02 Notice of when affidavit or declaration is due
1604.03 Form for filing § 8 affidavit or declaration
1604.04 Time for filing § 8 affidavit or declaration
1604.04(a) Premature filing of § 8 affidavit or declaration
1604.04(b) Registrations in twenty-year terms
1604.05 Requirements for § 8 affidavit or declaration
1604.06 Fees for § 8 affidavit or declaration
1604.06(a) Filing fee for affidavit or declaration
1604.06(b) Grace period surcharge and deficiency surcharge
1604.06(c) Processing affidavit or declaration filed with insufficient fees
1604.07 Ownership and who may file § 8 affidavit or declaration
1604.07(a) Affidavit or declaration must be filed by owner
1604.07(b) Establishing ownership
1604.07(c) Acceptance notice issued in name of owner of record
1604.07(d) Changes of legal entity
1604.07(e) Changes of name
1604.07(f) Correction of mistake in setting forth the name of the owner
1604.08 Execution of affidavit or declaration
1604.08(a) Persons who may sign affidavit or declaration
1604.08(b) Date of execution of affidavit or declaration
1604.08(c) Signature of electronically transmitted affidavit or declaration
1604.08(d) Form and wording of verification
1604.09 Goods/Services/Classes Set Forth in § 8 Affidavit or Declaration
1604.09(a) Goods/services/collective membership organization must be specified or expressly incorporated by reference
1604.09(b) Deletion of goods/services/classes
1604.09(c) Failure to list all goods/services/collective membership organization in registration
1604.09(d) New goods and/or services cannot be added
1604.10 Use in commerce
1604.11 "Excusable Nonuse" of Mark
1604.12 Specimen showing current use of mark in commerce
1604.12(a) Specimen for each class required
1604.12(b) Specimen submission issues
1604.12(c) Substitute specimens
1604.13 Differences in the mark as used on the specimen and the mark as registered
1604.13(a) Possible amendment of mark in registration
1604.14 Designation of domestic representative by foreign owner
1604.15 Office actions and notices regarding affidavit or declaration
1604.16 Response to office action
1604.17 Correction of deficiencies in § 8 affidavit or declaration
1604.17(a) Correcting deficiencies in affidavits or declarations timely filed within the periods set forth in § 8(a) of the act
1604.17(b) Correcting deficiencies in affidavits or declarations filed during the grace period
1604.17(c) Defects that cannot be cured after expiration of the grace period

1604.18 Petition under 37 C.F.R. § 2.146
1604.18(a) Response to examiner's refusal required before petition
1604.18(b) Decision on petition is final action of the USPTO
1604.18(c) Request for reconsideration of denial of petition
1604.18(d) Appeal to federal court
1604.19 Section 8 affidavit or declaration of use or excusable nonuse combined with renewal application
1604.20 Additional Requirements for § 8 Affidavits or Declarations Pertaining to Collective Marks
1604.20(a) Exercising legitimate control
1604.20(b) Manner/method of control
1604.21 Additional requirements for § 8 affidavits or declarations pertaining to certification marks
1604.21(a) Certification standards
1604.21(b) Exercising legitimate control
1604.21(c) Certification statement
1604.21(d) Statement that owner is not engaged in production or marketing of the goods/services
1604.22 Post registration audit
1604.23 Correction of § 8 affidavit or declaration
1605 Affidavit or declaration of incontestability under § 15 of the Trademark Act
1605.01 Registrations to which § 15 affidavit or declaration pertains
1605.02 Form for filing affidavit or declaration of incontestability
1605.03 Time for filing affidavit or declaration of incontestability
1605.04 Requirements for affidavit or declaration of incontestability
1605.05 Combining § 15 affidavit or declaration with § 8 affidavit or declaration
1605.06 Section 14 limitation is independent of § 15 affidavit or declaration
1606 Renewal of registration under § 9 of the Trademark Act
1606.01 Which registrations must be renewed under § 9
1606.01(a) Registrations based on applications under § 1 or § 44 must be renewed under § 9
1606.01(b) Section 9 does not apply to extensions of protection of international registrations to the United States
1606.01(c) Renewal of registrations issued under prior U.S. Trademark Acts must be renewed under § 9
1606.02 Requirements for renewal under § 9
1606.03 Time for filing § 9 renewal application
1606.03(a) Premature filing of § 9 renewal application
1606.04 Form for filing § 9 renewal application
1606.05 Fees for § 9 renewal applications
1606.05(a) Fee for filing application for renewal under § 9
1606.05(b) Grace period surcharge and deficiency surcharge
1606.05(c) Processing § 9 renewal application filed with insufficient fees
1606.06 Ownership and who may file § 9 renewal application
1606.07 Execution of § 9 renewal application
1606.08 Goods/Services/Classes Set Forth in § 9 Renewal Application
1606.08(a) Listing of Goods/Services/Classes Required Only for Partial Renewal
1606.08(b) No Goods/Services Listed
1606.08(c) Some Goods/Services/Classes Listed

1606.08(d) Goods/Services/Classes Not Listed in Registration May Not Be Listed in Renewal Application
1606.09 Affidavit of use in commerce or excusable nonuse not required
1606.10 Designation of domestic representative by foreign applicant for renewal under § 9
1606.11 Office actions and notices regarding § 9 renewal application
1606.12 Response to office action
1606.13 Correction of deficiencies in § 9 renewal applications
1606.13(a) Correcting deficiencies in § 9 renewal applications filed within the year before the expiration date of the registration
1606.13(b) Correcting deficiencies in renewal applications filed during the grace period
1606.13(c) Late filing cannot be cured
1606.14 Petition to the director under 37 C.F.R. § 2.146
1606.14(a) Response to examiner's refusal required before petition
1606.14(b) Decision on petition is final action of the USPTO
1606.14(c) Request for reconsideration of denial of petition
1606.14(d) Appeal to federal court
1606.15 Section 9 renewal application combined with affidavit or declaration of use or excusable nonuse
1607 Cancellation of Registrations Under Trademark Act §§ 14 and 37
1608 Surrender of registration for cancellation
1609 Amendment and correction of registrations
1609.01 Amendment of registration—In general
1609.01(a) Limited amendments to registered extension of protection
1609.01(b) Amendment of registration resulting from § 1 or § 44 application
1609.02 Amendment of mark
1609.02(a) Determining what constitutes material alteration of mark
1609.02(b) New drawing required
1609.02(c) Supporting specimens and declaration
1609.02(d) Conforming amendments
1609.02(e) Amendment of black-and-white drawing of mark for which color is claimed to substitute color drawing
1609.02(f) Amendment of black-and-white drawing to color drawing
1609.02(g) Amendment to special form drawing containing black, white, and/or gray
1609.03 Amendment of identification
1609.04 Amendment of classification
1609.05 Disclaimer of Mark and Claim of Acquired Distinctiveness
1609.06 Territorial restrictions
1609.07 Dates of use
1609.08 Effect of amendment of registration on limitation of grounds for cancellation of a registration
1609.09 Amendment of registered mark from supplemental to principal register not permitted
1609.10 Correction of mistake in registration
1609.10(a) Correction of USPTO error
1609.10(b) Correction of Owner's Error
1609.11 Change of owner's address can be filed through the Trademark Electronic Filing System
1609.12 Amendment of certification statement for certification marks

1610 Court orders concerning registrations
1611 Updating automated records to show the status of registrations
1612 Requirement for registrant's correspondence email and domicile address, representation, and attorney identification information
1612.01 Correspondence email and domicile address of registrant
1612.01(a) Correspondence email address
1612.01(b) Domicile address of mark owner
1612.02 Representation Based on Domicile of Mark Owner
1612.03 Attorney identification information
1613 Affidavit or Declaration of Use in Commerce or Excusable Nonuse Under § 71 of the Trademark Act
1613.01 Registrations to which § 71 affidavit or declaration pertains
1613.02 Notice of when affidavit or declaration is due
1613.03 Form for filing § 71 affidavit or declaration
1613.04 Time for filing § 71 affidavit or declaration
1613.05 Requirements for § 71 affidavit or declaration of use or excusable nonuse
1613.06 Fees for § 71 Affidavit or Declaration
1613.06(a) Filing fee for affidavit or declaration
1613.06(b) Grace period surcharge and deficiency surcharge
1613.06(c) Processing affidavit or declaration filed with insufficient fees
1613.07 Ownership and who may file § 71 affidavit or declaration
1613.07(a) Affidavit or declaration must be filed by holder
1613.07(b) Establishing ownership
1613.07(c) Changes of legal entity
1613.07(d) Changes of name
1613.07(e) Correction of mistake in setting forth the name of the holder
1613.08 Execution of affidavit or declaration
1613.08(a) Persons who may sign affidavit or declaration
1613.08(b) Date of execution of affidavit or declaration
1613.08(c) Signature of electronically transmitted affidavit or declaration
1613.08(d) Form and wording of verification
1613.09 Goods/Services/Classes Set Forth in § 71 Affidavit or Declaration
1613.09(a) Goods/services/collective membership organization must be specified or expressly incorporated by reference
1613.09(b) Deletion of goods/services/classes
1613.09(c) Failure to list all goods/services/collective membership organization in registration
1613.09(d) New goods and/or services cannot be added
1613.10 Use in commerce
1613.11 "Excusable Nonuse" of Mark
1613.12 Specimen showing current use of mark in commerce
1613.12(a) Specimen for each class required
1613.12(b) Specimens submission issues
1613.12(c) Substitute specimens
1613.13 Differences in the mark as used on the specimen and the mark as registered
1613.13(a) Amendment of mark in registration
1613.14 Designation of domestic representative by foreign holder
1613.15 Office actions and notices regarding affidavit or declaration
1613.16 Response to office action

1613.17 Correction of deficiencies in § 71 affidavit or declaration
1613.17(a) Correcting deficiencies in affidavits or declarations timely filed within the periods set forth in § 71(a) of the Act
1613.17(b) Correcting deficiencies in affidavits or declarations filed during the grace period
1613.17(c) Defects that cannot be cured after expiration of the grace period
1613.18 Petition under 37 C.F.R. § 2.146
1613.18(a) Response to examiner's refusal required before petition
1613.18(b) Decision on petition is final action of the USPTO
1613.18(c) Request for reconsideration of denial of petition
1613.18(d) Appeal to federal court
1613.19 Section 71 affidavit or declaration combined with Section 15 affidavit or declaration
1613.20 Additional requirements for § 71 affidavits or declarations pertaining to collective marks
1613.20(a) Exercising legitimate control
1613.20(b) Manner/method of control
1613.21 Additional requirements for § 71 affidavits or declarations pertaining to certification marks
1613.21(a) Certification standards
1613.21(b) Exercising legitimate control
1613.21(c) Certification statement
1613.21(d) Statement that holder is not engaged in production or marketing of the goods/services
1613.22 Post registration audit
1613.23 Correction of § 71 affidavit or declaration
1614 Renewal of registered extension of protection
1615 Division of registrations
1615.01 Division of registration based on application under § 1 or § 44 of the Trademark Act
1615.02 Division of registered extension of protection
1616 Replacement with a Section 66(a) Registration

CHAPTER 1700 PETITIONS, REQUESTS FOR REINSTATEMENT, AND OTHER MATTERS SUBMITTED TO DIRECTOR

1701 Statutory authority of director
1702 Petitions to the director under 37 C.F.R. § 2.146—In general
1703 Specific types of petitions
1704 Petitionable subject matter
1705 Petition procedure
1705.01 Standing
1705.02 Petition fee
1705.03 Evidence and proof of facts
1705.04 Timeliness
1705.05 Due diligence
1705.06 Stay or suspension of pending matters
1705.07 Requirement for representation and signature
1705.07(a) Requirement for representation of non-U.S.-domiciled petitioner
1705.07(b) Signature of petition
1705.08 Request for reconsideration of denial of petition

1705.09 Appeal to federal court
1706 Standard of review on petition
1707 Director's supervisory authority under 37 C.F.R. § 2.146(a)(3)
1708 Waiver of rules
1708.01 Petition to waive domicile address requirement
1709 Petitions to the director under 37 C.F.R. § 2.147 to accept paper submissions
1709.01 Trademark Electronic Filing System unavailable on the date of filing deadline
1709.01(a) Trademark Electronic Filing System unavailable due to widespread or lengthy USPTO system outage
1709.01(b) Trademark Electronic Filing System unavailable due to limited or short-term USPTO system outage or user's system outage
1709.02 Certain paper submissions with statutory deadlines
1709.03 Extraordinary situation
1710 Petition to make special
1710.01 Basis for granting or denying petition
1710.02 Processing petition
1711 Review of denial of filing dates
1712 Reinstatement of applications and registrations
1712.01 Reinstatement of applications abandoned due to USPTO error
1712.02 Reinstatement of registrations cancelled or expired
1712.02(a) Request for reinstatement due to USPTO error
1712.02(b) Petition to reinstate a cancelled registration and accept a late response to a post registration office action
1712.02(b)(i) Time for filing petition
1712.02(b)(ii) Standard of review
1712.02(b)(iii) No authority to waive statutory requirements
1713 Petition to reverse holding of abandonment of application for incomplete response
1713.01 Standard of review
1713.02 Failure to respond to notice of incomplete response or denial of request for reconsideration with no appeal filed
1714 Petition to revive abandoned application
1714.01 Procedural requirements for filing petition to revive
1714.01(a) Failure to timely respond to an examining attorney's office action
1714.01(a)(i) Response to nonfinal office action
1714.01(a)(ii) Response to final office action
1714.01(b) Failure to file a statement of use or extension request—Notice of allowance received
1714.01(b)(i) Applicant must file statement of use or further extension requests during pendency of a petition
1714.01(c) Notice of allowance not received
1714.01(d) Timeliness
1714.01(e) Signed statement that delay was unintentional
1714.01(f) Applicability of unintentional delay standard
1714.01(f)(i) Situations where the unintentional delay standard applies
1714.01(f)(ii) Situations where the unintentional delay standard does not apply
1714.01(f)(ii)(A) Holding of abandonment of an application for incomplete response

1714.01(f)(ii)(B) Examining attorney's refusal of registration on ground that applicant did not meet statutory requirements before expiration of deadline for filing statement of use
1714.01(f)(ii)(C) Goods/services omitted from statement of use or request for extension of time to file a statement of use
1714.01(f)(ii)(D) Registered marks
1714.01(f)(ii)(E) Dismissal of appeal for failure to file a brief
1714.01(g) Request for reconsideration of denial of petition to revive
1715 Letters of protest against pending applications
1715.01 Appropriate and inappropriate subjects to be raised in letter of protest
1715.01(a) Issues appropriate as subjects of letter of protest
1715.01(b) Issues inappropriate as subject of letter of protest
1715.02 Timely filing of letter of protest
1715.03 Letter of protest filed before publication
1715.03(a) Standard of review for letter of protest filed before publication
1715.03(b) Action by examining attorney before publication
1715.04 Letters of protest filed on the date of publication or after publication
1715.04(a) Standard of review for letters of protest filed on the date of publication or after publication
1715.04(b) Jurisdiction of application after publication
1715.04(c) Action by examining attorney after publication
1715.04(d) Letter of protest does not stay or extend opposition period
1715.05 Information for parties filing letter of protest
1715.05(a) Types of evidence appropriate for letter of protest
1715.05(b) Amount and format of evidence for letter of protest
1715.05(c) Letter-of-protest evidence—Trademark trial and appeal board proceedings
1715.06 Requests for copy of letter of protest
1715.07 Recourse if letter of protest submission is determined to be noncompliant
1716 Petitions for expungement or reexamination
1716.01 Timing for requesting and instituting expungement or reexamination proceedings
1716.02 Petitions to request expungement or reexamination
1716.02(a) Basis for the petition
1716.02(b) Requirements for a complete petition
1716.02(c) Reasonable investigation requirement
1716.02(c)(i) Definition of reasonable investigation
1716.02(c)(ii) Sources of information and evidence
1716.02(d) Notice of petition for expungement or reexamination
1716.03 Instituting expungement and reexamination proceedings
1716.03(a) Prima facie case of nonuse
1716.03(b) Consolidating proceedings
1716.04 Procedures for expungement and reexamination proceedings
1716.04(a) Notice of institution and office action
1716.04(b) Responding to the initial office action
1716.04(c) Evidence of use or excusable nonuse
1716.04(d) Deleting goods and/or services or surrendering the registration
1716.04(e) Final action and notice of termination
1716.04(f) Requesting reinstatement after cancellation for failure to respond
1716.04(g) Estoppel

1716.04(h) Co-pending proceedings

CHAPTER 1800 PUBLIC INQUIRIES ABOUT APPLICATIONS AND REGISTRATIONS

1801 USPTO personnel may not express opinion on validity of registered trademark
1801.01 USPTO personnel cannot testify
1802 Congressional and other official inquiries
1803 Freedom of Information Act requests
1804 Inquiries from members of the press
1805 General inquiries from the public
1806 Contacts with third parties regarding ex parte matters
1807 USPTO website

CHAPTER 1900 MADRID PROTOCOL

1901 Overview of the madrid system of international registration
1902 International application originating from the United States
1902.01 Who can file
1902.02 Minimum requirements for date of receipt of international application in USPTO
1902.02(a) Form of international application
1902.02(b) Basic application or registration number
1902.02(c) Name and addresses of applicant
1902.02(d) Reproduction (drawing) of mark
1902.02(e) Color claim
1902.02(f) Identification of goods/services
1902.02(f)(i) House marks and "full line of . . ."
1902.02(f)(ii) Providing a website/online portal
1902.02(g) Classification in international applications
1902.02(g)(i) Reclassifying goods/services
1902.02(g)(ii) U. S. Classes A, B, and 200
1902.02(g)(iii) Kits and gift baskets
1902.02(h) List of contracting parties
1902.02(i) Fees
1902.02(j) Statement of entitlement
1902.02(k) Description of mark
1902.02(l) Indication of type of mark
1902.02(m) Email address of applicant
1902.03 Certification of international application by USPTO
1902.03(a) Petition to review refusal to certify
1902.03(b) Petition for an international application or registration
1902.04 Date of international registration
1902.05 IB requirements for complete international application
1902.06 Examination of application by IB
1902.07 Irregularities in international application
1902.07(a) Irregularities that must be remedied by the USPTO
1902.07(b) Irregularities that must be remedied by the applicant—Applicant must respond directly to the IB
1902.07(b)(i) Fee irregularities

1902.07(c) Irregularities that must be remedied by the applicant—Applicant must respond through the USPTO
1902.07(c)(i) Classification of goods/services
1902.07(c)(ii) Identification (indication) of goods/services
1902.07(d) Other Irregularities that must be remedied by applicant—Applicant may respond directly to the IB or through the USPTO
1902.07(e) Filing response directly with the IB
1902.07(f) Responding to notice of irregularity through the USPTO
1902.08 Subsequent designation—Request for extension of protection subsequent to international registration
1902.08(a) USPTO requirements
1902.08(b) Form for filing subsequent designation through the USPTO
1902.08(c) Fees for subsequent designation
1902.08(d) IB requirements for subsequent designation
1902.08(e) Irregularities in subsequent designation
1902.09 Dependence and "central attack": restriction, abandonment, cancellation, or expiration of basic application or registration during first 5 years
1902.10 Transformation when the USPTO is the office of origin
1902.11 Representative
1902.12 USPTO must notify ib of division or merger of basic application or registration
1903 Payment of fees
1903.01 Payment of USPTO fees
1903.02 Payment of international fees
1904 Request for extension of protection of international registration to the United States
1904.01 Filing request for extension of protection to United States
1904.01(a) § 66(a) basis for U.S. applications
1904.01(b) Filing date
1904.01(c) Declaration of intent to use required
1904.01(d) Use not required
1904.01(e) Priority
1904.01(f) Filing fee
1904.01(g) Constructive use
1904.01(h) May not be based on USPTO basic application or registration
1904.01(i) Requirement for representation based on domicile of § 66(a) applicant
1904.01(j) Requirement for email address of § 66(a) applicant
1904.02 Examination of request for extension of protection to the United States
1904.02(a) Examined as regular application on the principal register
1904.02(b) Examination of classification of goods/services in § 66(a) applications
1904.02(c) Examination of identification of goods/services in § 66(a) applications
1904.02(c)(i) Acceptable Identifications of Goods/Services
1904.02(c)(ii) Indefinite identification of goods/services with acceptable options within the scope of the class
1904.02(c)(iii) Indefinite identification of goods/services that does not include any goods/services within the class
1904.02(c)(iv) Examination of proposed amendments and issuance of final requirements for an acceptable identification
1904.02(c)(v) Effect of indicated classes—No precedential value on later-filed applications
1904.02(d) Examination issues specific to certification and collective marks

1904.02(e) Corrections to an international registration
1904.02(e)(i) Corrections to goods/services/classes
1904.02(f) Restrictions to goods/services
1904.02(f)(i) Limitations to goods/services
1904.02(f)(ii) Limitations vs. amendments to goods and services
1904.02(f)(iii) Partial cancellation of an international registration
1904.02(f)(iv) Partial ceasing of effect of a basic application/registration
1904.02(g) Refusal must be made within 18 months
1904.02(h) Office actions and responses
1904.02(i) Correspondence address
1904.02(j) Mark may not be amended
1904.02(k) Drawings and descriptions of the mark
1904.02(l) Jurisdiction
1904.03 Notice of refusal
1904.03(a) Notice must be sent within 18 months
1904.03(b) Requirements for notice of refusal
1904.03(c) § 66(a) applicant must respond to notification of provisional refusal
1904.03(d) Refusal pertaining to less than all the goods/services
1904.03(e) Confirmation or withdrawal of provisional refusal
1904.03(f) Notification of correction in the international register with respect to a pending request for extension of protection
1904.03(g) Notification restrictions to goods/services with respect to a pending request for extension of protection
1904.03(g)(i) Limitations to goods/services
1904.03(g)(ii) Partial Cancellation of an International Registration
1904.03(g)(iii) Partial Ceasing of Effect of a Basic Mark
1904.04 Opposition
1904.05 Certificate of extension of protection
1904.06 Assignment of extension of protection to the United States
1904.07 Invalidation of protection in United States
1904.07(a) Invalidation resulting from cancellation due to third-party challenge
1904.07(b) Invalidation resulting from cancellation for failure to file § 71 affidavit or declaration
1904.07(c) Invalidation resulting from voluntary surrender of registered extension of protection
1904.07(d) Invalidation resulting from expungement proceedings
1904.07(e) Issuance of notice of invalidation to the international bureau
1904.08 Cancellation of international registration by IB
1904.09 Transformation to application under § 1 or § 44
1904.09(a) Requirements for transformation
1904.09(b) Examination of transformed application
1904.10 Affidavits of use or excusable nonuse required
1904.11 Incontestability
1904.12 Replacement
1904.13 Amendment and correction of registered extension of protection to the United States
1904.13(a) Limited amendments to registered extension of protection
1904.13(b) Corrections to registered extensions of protection

1904.14 Notification of correction in the international register with respect to registered extension of protection
1904.15 Notification of restrictions to goods/services with respect to registered extension of protection
1904.15(a) Limitations to goods/services
1904.15(b) Partial Cancellation of an International Registration
1904.15(c) Partial Ceasing of Effect of an International Registration
1905 Renewal of international registrations
1906 Communications with international bureau regarding international registrations
1906.01 Recording changes in international register
1906.01(a) Change in ownership of international registration
1906.01(a)(i) Requirements for submitting changes in ownership of international registration through the USPTO
1906.01(a)(ii) International fees for recording changes of ownership of international registration
1906.01(a)(iii) Effect of change of ownership of international registration
1906.01(a)(iv) Dividing an international registration after change of ownership with respect to some but not all of the goods/services
1906.01(b) Restriction of holder's rights of disposal
1906.01(c) Change of the holder's name or address
1906.01(d) Change of name or address of representative
1906.01(e) Limitation, cancellation, or renunciation of an international registration
1906.01(f) Correction of errors in international registration
1906.01(g) Merger of international registrations
1906.01(h) License
1906.01(i) Changes that cannot be made to international registration

APPENDICES

Appendix A. Examining Attorneys' Appeal Briefs
Appendix B. Members of International Trademark Agreements
Appendix C. Notes of Other Statutes
Appendix D. Foreign Entity Appendix
Appendix D13. International Trademark Classification Changes, 37 CFR Part 6
Appendix E. Countries That Have Standard Character Marks or the Equivalent
Appendix F. Madrid Protocol Member Countries
Appendix G. *[Reserved]*
Appendix H. Contact Information for the PTO and IB
Appendix I. Guide to the International Registration of Marks, Part B, Chapter 1
Appendix J. *[Reserved]*
Appendix K. Madrid System for the International Registration of Marks—Forms
Appendix L. Intellectual Property Web Site Addresses
Appendix M. Madrid Agreement and Protocol Concerning the International Registration of Marks
Appendix N. Consistency Initiative

Appendix O. *[Reserved]*

Appendix P. Sample Form—International Application

Appendix Q. Searching Trademark Files

Appendix R. Tips for Holders of International Registrations Seeking Extension of Protection to the United States of America: Avoiding Provisional Refusals

Appendix S. Exam Guide 1-19: Examination of Marks for Cannabis and Cannabis-Related Goods and Services after Enactment of the 2018 Farm Bill

Appendix T. Exam Guide 1-22: Clarification of Examination Evidentiary Standard for Marks Refused as Generic

Appendix U. Exam Guide 2-22: Change in Office Action Response Periods (December 2022)

Appendix V. *[Reserved]*

Appendix W. USPTO: Brexit's Impact on USPTO Trademark Filings and Proceedings (May 24, 2021)

Appendix X. *[Reserved]*

Appendix Y. *[Reserved]*

Appendix Z. *[Reserved]*

Table of Cases

Index