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Rising US Trademark Fees Include Avoidable Surcharges

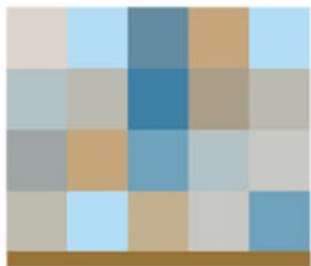
By: Michael J. Schwab

The United States Patent and Trademark Office (USPTO) has announced changes and increases to certain trademark application filing fees and other charges. The new fees will take effect on January 18, 2025.

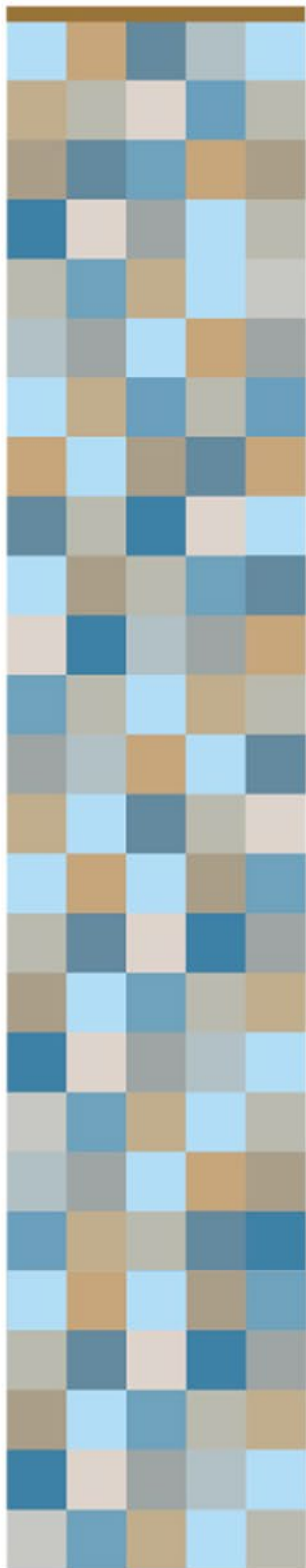
The USPTO advises that it is implementing these changes to align the fees it charges with the costs to efficiently administer the trademark registration system. Regardless of the USPTO's reasoning, the fee changes will alter the strategies to prepare, and estimates of the costs to file, trademark applications.

For example, the USPTO has eliminated two types of applications that can be filed and added fees for complex applications and applications filed with "insufficient information." Currently, there are two types of trademark applications, TEAS Plus and TEAS Standard applications. The filing fees are \$250 per class for a TEAS Plus application and \$350 per class for a TEAS Standard application. The difference between the applications is that the identification of the goods and services in a TEAS Plus application must use the identification for such goods and services as expressly set forth in the Trademark ID Manual, a searchable database of identifications for goods and services that have been accepted by the USPTO. A TEAS Standard application must be used if the applicant uses its own "free form" language to identify the goods and services in the application.

Under the new fee schedule, the \$100 per class cost-savings for filing a TEAS Plus application is eliminated, but failing to adhere to the requirements of a TEAS Plus application (e.g., filing a complete application and choosing goods and services from the Trademark ID Manual) will result in financial penalties, which the USPTO calls "surcharges." Specifically, the USPTO will charge an additional \$200 per class if the applicant creates a "free form" identification of goods and services (i.e., chooses its own goods and services identification instead of an identification set forth in the Trademark ID Manual). This effectively raises the fee for a "standard" application from \$350 to \$550. There will also be a \$200 surcharge for every 1,000 characters beyond the first 1,000 characters per class if applicant uses a "free form" identification. An applicant will also be charged \$100 per class if it provides "insufficient information" in its application. This includes, but is not limited to, failing to provide the following in an application: (i) a translation of non-English words in the trademark; (ii) the applicant's domicile address; (iii) the citizenship for an



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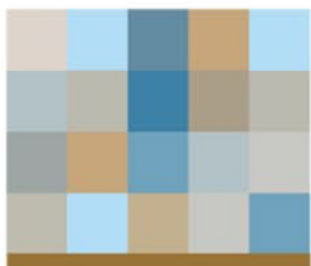


individual or the state or country of formation for an entity; or (iv) a written description of a logo mark.

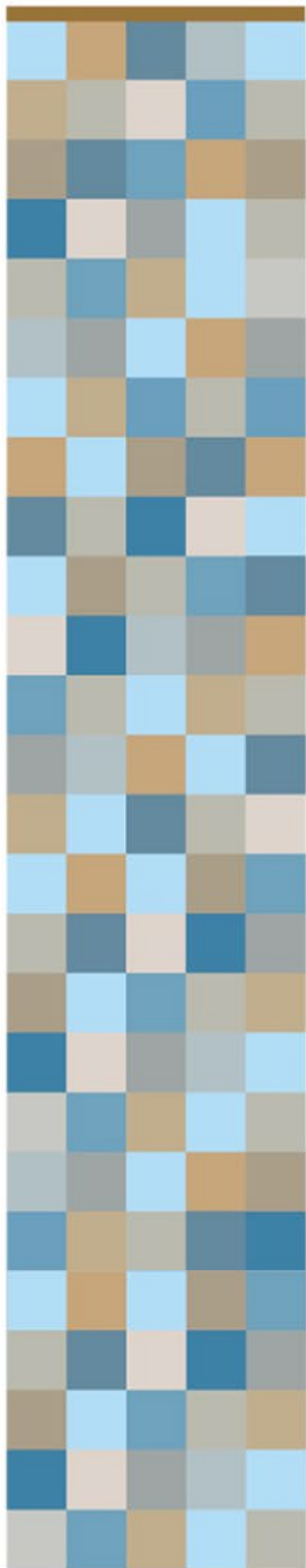
In addition to changes to the fees charged when an application is filed, the USPTO also increased the fees required to obtain and maintain a trademark registration. These include increases in the fees for filings required under the following sections of the Trademark Act: 8 (ongoing use); 9 (renewal); 15 (incontestability); and 71 (foreign renewal).

In all, the USPTO has increased or adjusted 28 trademark-related fees. A sample of the most noteworthy changes are as follows:

Fee	Current Fee	New Fee
Base application (Sections 1 and 44), per class	Depended on type of filing, options now removed	\$350
Surcharges	Current Fee	New Fee
Insufficient information in application (Sections 1 and 44), per class	n/a	\$100
Using the free-form text box instead of the Trademark ID Manual to identify goods and services (Sections 1 and 44), per class	n/a	\$200
Each additional group of 1,000 characters in the free-form text box beyond the first 1,000 (Sections 1 and 44), per affected class	n/a	\$200
Post-Registration Maintenance Fees	Current Fee	New Fee
Renewal application (Sections 8 and 9), per class, as required every 10 years after registration	\$525	\$650
Section 8 declaration of use, per class, as required before the sixth anniversary of the registration	\$225	\$325
Section 15 declaration (for "incontestability"), per class, usually combined with the first Section 8 filing	\$200	\$250
Section 71 declaration of use of international registration, per class	\$225	\$325
Petitions and Letters of Protest Fees	Current Fee	New Fee
Petition to the Director	\$250	\$400
Petition to revive an application	\$150	\$250
Letter of protest	\$50	\$150
Intent-to-Use Fees (for filings under Section 1(b))	Current Fee	New Fee
Amendment to Allege Use (AAU) or Statement of Use (SOU), per class	\$100	\$150



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Recommendations

- Any trademark owner considering filing an application to register a trademark or file a statement of use or any other maintenance or renewal documents for existing applications and registrations should consider doing so before January 18, 2025.
- For applications filed after January 18, 2025, applicants should be precise in describing their goods and services and, if possible, use the identifications contained in the Trademark ID Manual.
- All applications should be carefully reviewed before they are filed to confirm they contain all necessary information, such as translations of non-English words, written descriptions of logos and all other required information.
- Foreign applicants that typically use longer descriptions for the goods and services should carefully review the character count to avoid the extra fees charged for character counts over 1,000.

The intellectual property legal experts at Moritt Hock & Hamroff advise all trademark applicants and holders to become familiar with the changes now, and to consult with their attorneys ahead of the January 18 effective date in order to mitigate impacts.

If you have any questions regarding the matter raised in this Alert, please feel free to contact **Michael J. Schwab** at mschwab@moritthock.com or (212) 239-5527.

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