

ALERT

December 2020

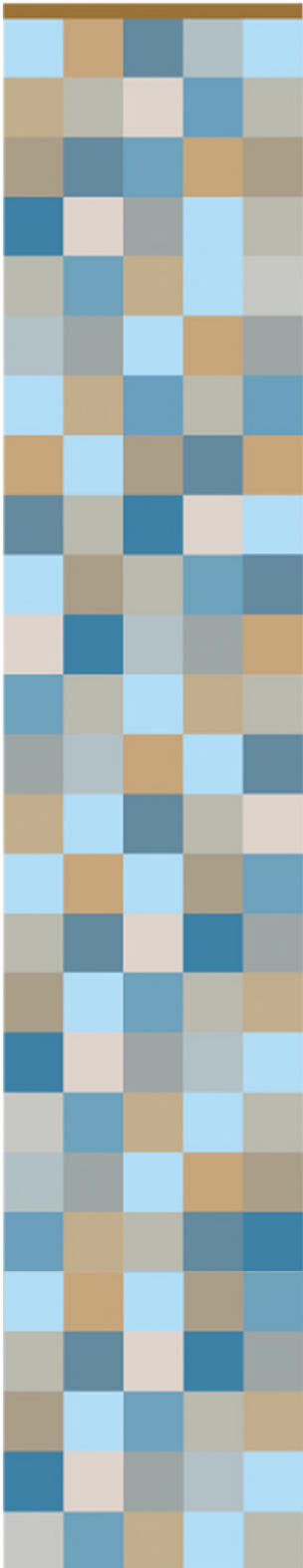
United States Patent & Trademark Office Announces Fee Increases for 2021

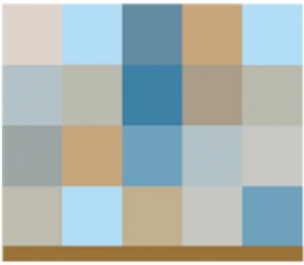
MHH Intellectual Property Practice Group

The United States Patent and Trademark Office (“USPTO”) has announced that, **effective January 2, 2021**, it is increasing certain fees it charges to file trademark applications, maintain trademark registrations, petition the Director and file oppositions and cancellation actions with the Trademark Trial and Appeal Board. (“TTAB”). It is also introducing new fees for certain filings that were previously without cost. The increases, as well as the new fees, range from modest to substantial and could impact a trademark owner’s decision to file applications, maintain registrations and seek to enforce its trademark rights.

The most notable fee changes are as follows:

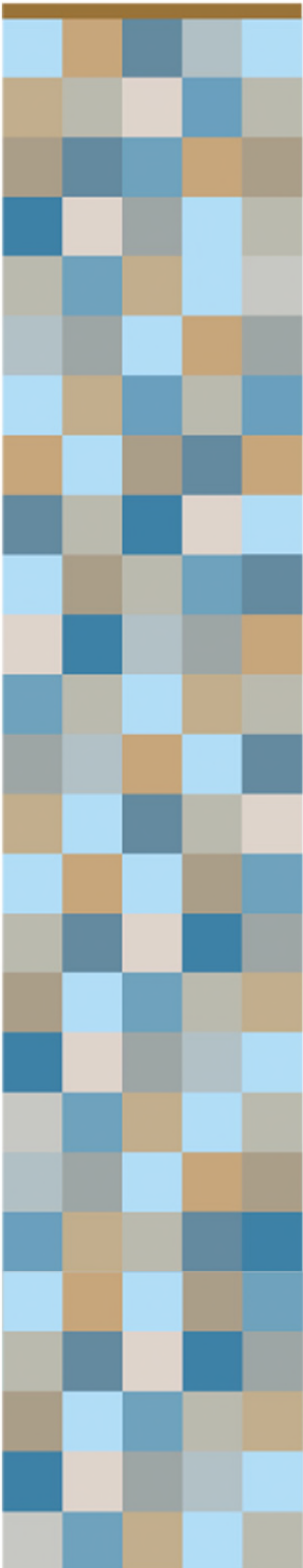
	Current Fee	New Fee
TRADEMARK APPLICATION FEES		
Standard Application (TEAS Standard)	\$275 per class	\$350 per class
Plus Application (TEAS Plus)	\$225 per class	\$250 per class
Processing fee for failing to meet TEAS Plus requirements (decrease)	\$125 per class	\$100 per class
POST-REGISTRATION FEES		
Declaration of Continued Use or Excusable Non-use (Section 8 or 71 Declaration of Continued Use)	\$125 per class	\$225 per class
Amend to the goods, services and/or classes from a registration after filing a Section 8 or 71 Declaration of Continued Use (new fee)	No fee	\$250 per class
PETITION TO DIRECTOR and LETTER OF PROTEST		
Petition to Director	\$100	\$250
Petition to revive an abandoned application	\$100	\$150
Letter of Protest (new fee)	No fee	\$50 per application





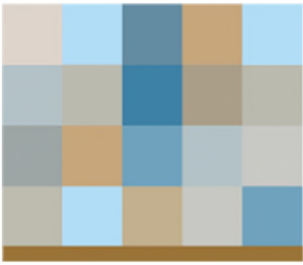
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	Current Fee	New Fee
TTAB		
Petition to Cancel and Notice of Opposition	\$400 per class	\$600 per class
First 30-day extension of time to file a Notice of Opposition	No fee	No fee
Initial 90-day, or second 60-day extension of time to file a Notice of Opposition	\$100 per application	\$200 per application
Final 60-day extension of time to file a Notice of Opposition	\$200 per application	\$400 per application
Notice of an <i>ex parte</i> appeal	\$200 per class	\$225 per class
Second and subsequent requests for extensions of time to file a brief in an <i>ex parte</i> appeal (there is no fee for the for the first request) (new fee)	No fee	\$100 per application
Appeal Brief in an <i>ex parte</i> appeal (new fee)	No fee	\$200 per class
Request for an oral hearing (new fee)	No fee	\$500 per proceeding

The USPTO claims the increases and new fees are required to cover its costs of operations and meet its strategic goals. However, some of the new fees are clearly designed to encourage compliance with the USPTO’s filing requirements. For example, the new fee of \$250 per class to delete goods and services and/or classes from a registration after a Section 8 or 71 Declaration of Continued Use is filed should prompt trademark owners to exercise greater diligence in confirming the goods and services on which a mark is used before executing the declaration. To maintain a registration a Section 8 or 71 Declaration of Continued Use and other information and documents must be filed with the USPTO between the 5th and 6th years after registration and the year preceding each 10th anniversary of registration. In the declaration the trademark owner attests that the mark is in use on all the goods in the registration (goods or services not in use should be deleted from the registration at the time the Section 8 or 71 Declaration of Continued Use is filed). The declaration must be accompanied by a specimen showing the use of the mark on at least one good or service in each class. To maintain the accuracy of the trademark register the USPTO randomly audits trademark registration maintenance filings. An owner of an audited registration is required to file additional specimens which show use of the mark on at least two other goods or services in each class. Audits often result in goods or services being deleted from a registration. If this occurs the trademark owner will now be required to pay an additional fee of \$250 per each effected class to maintain the registration. To avoid the possibility of this extra fee a trademark owner should take care to confirm the



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goods and services on which its mark is used before executing a Section 8 or 71 Declaration of Continued Use.

While most fees are being increased and new fees are being imposed, the USPTO has announced financial relief in a limited circumstance. The USPTO will now provide a partial refund of the fees paid to file a Petition to Cancel, but only if the Petition to Cancel is based on a claim of non-use or abandonment and the proceeding ends in a default judgement (with no other filings).

To save some costs trademark owners wishing to file new applications, or who have upcoming deadlines, should consider proceeding before the increased fees take effect.

If you have any questions regarding this Alert or any other trademark or IP related concerns, please do not hesitate to contact us. Our information is set forth below:

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