

Get Ready for Changes to USPTO Trademark Proceedings and Fees in January 2025

By Flavia Campbell

Effective January 18, 2025, the United States Patent and Trademark Office (“USPTO”) will update some of its trademark proceedings and fees. The changes aim to provide the USPTO with the additional funding needed to continue to improve its operations and streamline its services, including reducing processing delays, improving examination, enhancing IT systems, and addressing the ever-increasing fraudulent activities before the office. Here are the main changes you should know about.

1. Application Surcharges

The USPTO will still offer a “basic application” filing fee of \$350 per class. These applications, however, must meet two prerequisites:

- i. The application must be complete at the time of filing and not have any missing information necessary for the filing (e.g., applicant’s name and domicile, translation of the mark, description of the mark, etc.); and
- ii. The application must use the USPTO ID Manual pre-approved language for the recitation of goods and services.

The above prerequisites used to be the requirements for a TEAS PLUS application, for which the USPTO charged a discounted \$250 filing fee. The TEAS PLUS applications will be discontinued.

Applications that do not meet the above prerequisites will be charged the \$350 base fee and additional surcharges, namely, a \$100 fee per class in case the application is missing basic information at the time of filing and a \$200 fee, per class, if the application uses goods and services that are not on the USPTO ID Manual.

Therefore, for applications with specific recitations unlikely to be pre-listed within the USPTO ID Manual, the minimum application fee will be \$550, provided there is no missing information at the time of filing, in which case the \$200 additional fee will also apply. Applications based on foreign applications and foreign registrations are also subject to the surcharge fees above.

2. Limitation to the length of the recitation of goods and services

Another significant change that may impact the application filing fee is the adoption of surcharges for excessively long recitation of goods and services. For recitations with more than 1,000 characters per class, the USPTO will charge an additional \$200 fee for each additional group of 1,000 characters beyond the first 1,000 characters, per class. Applicants who enter identifications from the USPTO ID Manual will not incur this fee, even if the identification exceeds 1,000 characters. Applications filed under the Madrid Protocol will not be subject to this surcharge.

3. Fee Increase

The USPTO is increasing several trademark-related fees, including those relating to post-registration maintenance requirements, such as renewals, declarations of use, and declarations of incontestability. There are, however, no changes to fees pertaining to proceedings before the Trademark Trial and Appeal Board, such as ex-parte appeals, oppositions and cancellations. The table below lists the main categories that will experience fee increases.

| Description | Current fee | New fee |
|---|-------------|---------|
| §9 registration renewal application, per class | \$300 | \$325 |
| §8 use declaration, per class | \$225 | \$325 |
| §15 incontestability declaration, per class | \$200 | \$250 |
| §71 use declaration (Madrid Protocol extensions), per class | \$225 | \$325 |
| Filing Amendment to allege use (AAU), per class | \$100 | \$150 |
| Filing Statement of use (SOU), per class | \$100 | \$150 |
| Filing Petition to the Director | \$250 | \$400 |
| Filing Petition to revive an application | \$150 | \$250 |
| Filing Letter of protest | \$50 | \$150 |

4. Madrid Protocol-related fee increases before WIPO

The USPTO is also increasing the fees charged via WIPO for International Registrations that designate the United States as a contracting party or subsequent designation. Because, at this time, WIPO cannot charge for surcharges relating to application deficiencies discussed above (e.g., nonconforming goods and services, missing information, etc.), the USPTO adjusted the existing flat fee for Madrid applications to \$600 per class, paid in Swiss Francs to WIPO. The increased fee will be charged on Madrid applications with a receipt date on or after **February 18, 2025**.

We encourage applicants interested in filing U.S. applications to consider doing so prior to the implementation of the fee increase on January 18, 2025. Similarly, registrants with upcoming maintenance

deadlines that may be handled prior to January 18, 2025, should consider doing so before the new fee schedule goes into effect. If you have any questions about how these changes may affect your trademark portfolio and strategy, please do not hesitate to contact our Trademark Group.

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