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Trademark Owners Encouraged to Act by Year End to Avoid USPTO Trademark Fee Increases

The United States Patent and Trademark Office (“USPTO”) announced it is making some significant fee increases effective January 2, 2021. The fee increases will affect new applications, registration maintenance filings and Trademark Trial and Appeal Board (“TTAB”) proceedings.

Filing fees for new trademark applications will see an increase in 2021, with TEAS Standard filing fees increasing from \$275 per class to \$350 per class and TEAS Plus fees increasing from \$225 per class to \$250 per class. The lower TEAS Plus fee is available to trademark applicants who utilize the USPTO’s ID Manual rather than draft their own description of goods and services. The increased delta between the TEAS Standard and TEAS Plus filing fees makes adherence to the ID Manual even more advantageous.

The fee increases also include a \$100 per class bump in Section 8 filing fees which will impact both Declaration of Use filings due between the 5th and 6th anniversary of registration and renewal filings due every 10 years. Trademark owners with maintenance filings due in 2021 should consider filing by the end of 2020 to avoid the fee increase.

There is also a new \$250 per class fee to delete goods or services after submitting a Section 8 but prior to acceptance. In other words, if specimens of use are rejected or a maintenance filing is audited, and the trademark owner is required to delete goods or services due to nonuse, the new fee will be assessed. This new fee underscores the requirement to identify any goods and services for which the registered mark is no longer in use and to delete them from the registration at the time of the maintenance filing.

Additional new fees include fees for filing a letter of protest (\$50 per application), filing a brief in an ex parte appeal to the TTAB (\$200 per class), a second or subsequent request for an extension to file an appeal brief (\$100 per application), and a request for an oral hearing (\$500 per proceeding). Filing fees for notices of opposition and petitions to cancel have also been increased from \$400 to \$600 per class. Paper filings, already subject to higher fees, have also received fee increases to further encourage online filings.

Consistent with federal fee-setting standards, in December 2018 the USPTO began its biennial review of fees, costs and revenues, and found that fee adjustments were necessary to address increasing costs and to provide necessary resources for USPTO trademark operations. The USPTO noted the “overall strategy is to balance a reasonable and affordable fee schedule with sufficient multi-year revenue to recover the aggregate costs of maintaining the USPTO’s trademark-related operations and accomplishing the USPTO’s trademark-related strategic goals.” Additional information may be found on the [USPTO’s website](#).

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The increase in fees impacts many aspects of the trademark application, appeal, and enforcement process. However, there is still time to take advantage of the current rates. In light of economic conditions caused by COVID-19, it is more important than ever for trademark owners, and prospective applicants, to take advantage of the prevailing rates and properly budget for the upcoming changes.

Additional Information

If you would like assistance evaluating and handling these and other related matters, Kutak Rock's [Intellectual Property Practice Group](#) is comprised of attorneys who have extensive experience in counseling clients on trademark issues, including evaluating whether a mark can and should be adopted and registered, enforcement of a trademark, TTAB proceedings and trademark litigation. If you would like assistance evaluating and handling these and other related matters, please contact one of the authors or any member of our [Intellectual Property Practice Group](#).

