

MARQUEZ IP LAW OFFICE, PLLC

THE PROFESSIONAL INTELLECTUAL PROPERTY ADVISORS

PATENTS • TRADEMARKS • COPYRIGHTS

December 27, 2024

VIA E-MAIL

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Re: Upcoming Increases in USPTO Trademark Fee Schedule And Other News

Dear Client:

The U.S. Patent and Trademark Office (USPTO) has announced updated patent fees in a final rule that will become effective **January 18, 2025**. According to the USPTO announcements, the updated trademark fees are intended to compensate for increasing costs in the administration of trademark filings and registrations while promoting innovation, inclusive capitalism, and global competitiveness, and to provide the necessary funding to support current USPTO operations and goals. Attached please find a table summarizing what we believe are the most relevant trademark fee increases and adjustments.

Among the increases to the current government fees, some revised fees worth noting in the summary table include:

- (1) A single electronic filing fee per class will replace TEAS Plus and TEAS Standard fees.
- (2) New surcharge fees according to application attributes, including a fee per class for any deficiency in initial application information or documents and a fee per class for entering identifications of goods and/or services in the free-form text box.
- (3) The Madrid Protocol application fee per class will be increased but will not be subject to surcharge fees for the immediate future.

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Single Electronic Filing Fee: The substantial increases in the fees for filing second and subsequent Requests for Continued Examination (RCE), as compared to the relatively modest increase in the fee for filing the first RCE suggests that the USPTO may be trying to discourage the filing of more than one RCE during the course of prosecution, and compelling applicants to seek narrower, allowable claims after the first or second final office action.

New Application Surcharges: The new fees to be imposed for filing a new applications that is deficient in providing any of the following requirements (if applicable):

- The applicant's name and domicile address;
- The applicant's legal entity;
- The citizenship of each individual applicant, or the state or country of incorporation or organization of each juristic applicant;
- If the applicant is a domestic partnership, the names and citizenship of the general partners, or if the applicant is a domestic joint venture, the names and citizenship of the active members of the joint venture;
- If the applicant is a sole proprietorship, the state of organization of the sole proprietorship and the name and citizenship of the sole proprietor;
- One or more bases for filing that satisfy all the requirements of § 2.34. If more than one basis is set forth, the applicant must comply with the requirements of § 2.34 for each asserted basis;
- If the application contains goods and/or services in more than one class, compliance with § 2.86;
- A filing fee for each class of goods and/or services, as required by § 2.6(a)(1)(ii) or (iii);
- A verified statement that meets the requirements of § 2.33, dated and signed by a person properly authorized to sign on behalf of the owner pursuant to § 2.193(e)(1);
- If the applicant does not claim standard characters, the applicant must attach a digitized image of the mark. If the mark includes color, the drawing must show the mark in color;
- If the mark is in standard characters, a mark comprised only of characters in the Office's standard character set, typed in the appropriate field of the application;
- If the mark includes color, a statement naming the color(s) and describing where the color(s) appears on the mark, and a claim that the color(s) is a feature of the mark;
- If the mark is not in standard characters, a description of the mark;
- If the mark includes non-English wording, an English translation of that wording;
- If the mark includes non-Latin characters, a transliteration of those characters;

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- If the mark includes an individual's name or likeness, either (1) a statement that identifies the living individual whose name or likeness the mark comprises and written consent of the individual, or (2) a statement that the name or likeness does not identify a living individual (see section 2(c) of the Act);
- If the applicant owns one or more registrations for the same mark, and the owner(s) last listed in Office records of the prior registration(s) for the same mark differs from the owner(s) listed in the application, a claim of ownership of the registration(s) identified by the registration number(s), pursuant to § 2.36;
- If the application is a concurrent use application, compliance with § 2.42;
- An applicant whose domicile is not located within the United States or its territories must designate an attorney as the applicant's representative, pursuant to § 2.11(a), and include the attorney's name, postal address, email address, and bar information; and
- Correctly classified goods and/or services, with an identification of goods and/or services from the Office's Acceptable Identification of Goods and Services Manual within the electronic form.

Please note that there will also be a separate additional fee for entering the description of goods/services in the free-form text box.

Madrid Protocol: The fee for applications filed under Section 66(a) will be increased, but will be exempt from the additional surcharges that will be imposed on all other US trademark applications. This is due to the WIPO fee payment system lacking the capacity to impose surcharges on applicants. However, this may be subject to later reconsideration by the USPTO subject to future changes in WIPO's fee charging system.

Expiration of TEAS: In conjunction with the upcoming fee adjustments and the changes to patent practice resulting from the new and adjusted fees, the USPTO has also announced that the Trademark Electronic Application System (TEAS) will expire and will no longer be available for filing new applications as of January 17, 2025. The new Trademark Center will be the only portal for filing new trademark applications as of that date.

As with the adjustments and increases to the USPTO patent fees, those with respect to the USPTO trademark fees are aimed at making up for shortfalls in USPTO operations funding and at modifying certain industry practices that are proving to be a burden on USPTO operations.

You should consider adjusting your filing strategies and schedules for any new applications and responses to office actions with an extension in order to avoid the upcoming higher fees that will be effective as of January 18, 2025.

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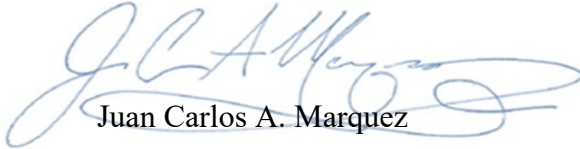
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Should you have any questions, please feel free to contact us at your convenience.
We look forward to being of service to you.

Very truly yours,

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Juan Carlos A. Marquez

JCM:
Enclosure