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FEATURED · BRAND PROTECTION — TRADEMARKS, TIMELINES & COSTS



FROM THE SHORE *Clear the waters before you set sail.*

BRAND PROTECTION

Lifecycle of a *Trademark Application*

From clearance search to renewal — what each step of a USPTO trademark application involves, and what it costs.

TAMARA L. HARPER, J.D., AEP® • 5 MIN READ • BRAND PROTECTION · TRADEMARKS

Your trademark timeline and costs depend on **several factors** — how many marks you file, what you sell, and when you start using the mark.

If you are using a logo or brand to sell something, you can file a trademark application for it with your state or federally with the USPTO. Knowing the steps, deadlines and fees **before you file** makes it far easier to budget — and to avoid the delays that slow an application down.

AT A GLANCE

What this issue covers

01 **What you're protecting** — Marks, Classes, and the filing fee.

02 **Use status** — In use now, or intent to use.

03 **Specimens** — The proof of use the USPTO requires.

04 **Six-step timeline** — From clearance search to registration.

05 **Office Actions** — Why to avoid them, and the response window.

06 **Renewal** — Years 5–6, 9–10, then every ten years.

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BEFORE YOU FILE

What you're protecting — and what drives the cost

A trademark *is a word, phrase, design or symbol, sound, or combination thereof that identifies and distinguishes certain goods and/or services provided by you.*

FACTOR 1

How many marks

Separate applications are required for a word mark and a design mark.

FACTOR 2

What you offer

The USPTO sorts goods and services into Classes, and your Class(es) set the filing fees.

FACTOR 3

When you use it

Whether you are already using the mark, or plan to, changes the path and the fees.

$350
PER MARK, PER CLASS

Goods/services Classes. A trademark application is filed with the United States Patent and Trademark Office (USPTO) to claim use and protect your brand for your particular goods or services, which the USPTO categorizes into Classes. Each Class has a separate filing fee: **$350 per Mark per Class.**

STATUS OF USE

Already using the mark, or planning to?

IN USE NOW

Using the mark

In interstate commerce

You are already using the mark in interstate commerce — that is, among several states.

NOT YET IN USE

Intent to use

Additional filing fees apply

If the application is filed on an intent to use basis, there are additional fees for filing proof of use before registration.

After the USPTO approves an intent to use application and issues a **Notice of Allowance**, you have **6 months** to begin using the mark in interstate commerce and file proof of that use, called an Affidavit of Use.

	FILING	USPTO FEE
EXTENSION	Request for an Extension of Time — filed every six months if you are not yet using the mark, for up to 36 months in total.	$125 per Mark per Class, each extension
PROOF OF USE	Affidavit of Use — filed with specimens once you start using the mark in commerce.	$150 per Mark per Class

SPECIMENS

The exact mark, on the exact goods or services

An Affidavit of Use must prove use of the exact mark filed on the exact products or services filed for, and include photo evidence of that use, in order to be approved and obtain trademark registration.

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TRADEMARK APPLICATION TIMELINE

Six steps, from search to renewal

01 Research and clear for availability

Prior to filing a new application and spending money on marketing, product manufacturing or use, a complete search must be done for others using the mark — in other states, domain names, business names, and other common law (actual, but non-registered) use.

This evaluates potential conflicts that may prevent your use or lead the USPTO to refuse the mark.

02 If available, file the application

Once the clearance search is complete, discussed, and cleared for availability, a trademark application can be filed with the USPTO.

03 USPTO Examining Attorney review

About 6 to 9 months after filing, the application results in either an allowance of the mark to proceed to publication, or an Office Action requesting further information, documentation, changes and/or clarification — for example, a likelihood of confusion with another mark, or that the mark is generic or descriptive.

ABOUT 6–9 MONTHS

04 Responding to an Office Action

Many issues can be prevented by filing a thorough application, having excellent specimens of use, and conducting the search in step 1. The cost of responding cannot be estimated, because it depends on the refusal and the grounds cited by the Examining Attorney. The goal is to avoid one, if at all possible; if one is issued, the proposed budget to respond requires a discussion with counsel.

You have 3 months to respond after issuance, and responding quickly moves the application along sooner.

3-MONTH DEADLINE

05 Publication in the Official Gazette

If the Examining Attorney approves the mark, it publishes in the USPTO Official Gazette. If no one in the world files an opposition within 30 days (or requests an extension of time to do so), the mark proceeds to registration if you are using it — or, for an intent to use mark, the USPTO issues a Notice of Allowance, about 3 to 5 months thereafter.

30-DAY OPPOSITION WINDOW

06 Renewal after registration

Initial registration lasts 5 years. If you continue to use your trademark, you must declare that to be true and renew between years 5 and 6 after registration, between years 9 and 10, and again every 10 years thereafter.

USPTO post-registration fees are **$575** at year 5 and **$650** at year 10. These are the current USPTO filing fees, which may change in the future.

YEARS 5–6 YEARS 9–10 EVERY 10 YEARS

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BUDGETING FOR YOUR TRADEMARK

Plan on an estimate — and start with a thorough search

AN ESTIMATE ONLY

What to expect from the numbers in this issue

The costs described here are estimates only, based on attorney experience in preparing an application, affidavits and/or extensions. Filing fee costs are set each year by the USPTO. While an attorney cannot predict whether others will oppose the application or how the USPTO Examining Attorney will respond, a thorough initial clearance and attorney opinion report is a key component.

> *There are many issues that can be prevented by filing a thorough application, having excellent specimens of use and conducting the search report.*
>
> TAMARA L. HARPER, J.D., AEP®



BRAND PROTECTION

Is your brand cleared to file?

Start with a clearance search — before you spend on marketing, product manufacturing or launch.

BRAND RESOURCES →

BOOK A CONSULTATION →

CALL 805-409-0530 ↗

RESOURCES & CONTACT

- → **Brand Protection Resources**
  Trademark and copyright checklists, worksheets and articles
- → **805-409-0530**
  Virtual or in-office appointments
- → **141 Duesenberg Drive, Suite 7B**
  Westlake Village, CA 91362

Our firm is passionate about protecting and educating our clients. We offer checklists and worksheets to assist you, as well as articles we frequently publish on developing issues relevant to estate planning, business, employment law, asset protection and intellectual property protection. For more information about trademarks and copyrights, see the Brand Protection Resources tab on our website.

This article is provided for general informational purposes and does not constitute legal advice. USPTO fees are set by the USPTO and may change, and timelines and costs vary with the facts of each application. Tamara L. Harper is a proud member of the Conejo Valley Estate Planning Council and WealthCounsel, and holds the AEP® accreditation with the National Association of Estate Planners and Councils.

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