

§ 2.65 Abandonment.

(a) If an applicant fails to respond, or to respond completely, within six months after the date an action is mailed, the application shall be deemed abandoned unless the refusal or requirement is expressly limited to only certain goods and/or services. If the refusal or requirement is expressly limited to only certain goods and/or services, the application will be abandoned only as to those particular goods/services. A timely petition to the Director pursuant to §§ 2.63(b) and 2.146, if appropriate, is a response that avoids abandonment of an application.

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18. Amend § 2.66 by revising paragraph (a) to read as follows:

§ 2.66 Revival of abandoned applications.

(a) An applicant may file a petition to revive an application abandoned because applicant did not timely respond to an Office action or notice of allowance, if the delay was unintentional. The applicant must file the petition within two months of the mailing date of the notice of abandonment.

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19. Amend § 2.72 to add a new paragraph (d) to read as follows:

§ 2.72 Amendments to description or drawing of the mark.

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(d) In an application under section 66(a) of the Act, the applicant may amend the description or drawing of the mark only if the proposed amendment does not materially alter the mark. The Office will determine whether a proposed amendment materially alters a mark by comparing the proposed amendment with the description or drawing of the mark in the international registration.

20. Amend § 2.73 by revising paragraph (a) to read as follows:

§ 2.73 Amendment to recite concurrent use.

(a) An application under section 1(a), section 44, or section 66(a) of the Act may be amended to an application for concurrent use registration, provided the application as amended satisfies the requirements of § 2.42. The trademark examining attorney will determine whether the application, as amended, is acceptable.

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21. Amend § 2.75 to add a new paragraph (c) to read as follows:

§ 2.75 Amendment to change application to different register.

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(c) In an application under section 66(a) of the Act, the applicant may not amend the application to the Supplemental Register.

22. Revise § 2.84 to read as follows:

§ 2.84 Jurisdiction over published applications.

(a) The trademark examining attorney may exercise jurisdiction over an application up to the date the mark is published in the Official Gazette. After publication of an application under section 1(a), 44 or 66(a) of the Act the trademark examining attorney may, with the permission of the Director, exercise jurisdiction over the application. After publication of an application under section 1(b) of the Act, the trademark examining attorney may exercise jurisdiction over the application after the issuance of the notice of allowance under section 13(b)(2) of the Act. After publication, and prior to issuance of a notice of allowance in an application under section 1(b), the trademark examining attorney may, with the permission of the Director, exercise jurisdiction over the application.

(b) After publication, but before the certificate of registration in an application under section 1(a), 44 or 66(a) of the Act is printed, or before the notice of allowance in an application under section 1(b) of the Act is printed, an application that is not the subject of an inter partes proceeding before the Trademark Trial and Appeal Board may be amended if the amendment does not necessitate republication of the mark or issuance of an Office action. Otherwise, an amendment to such an application may be submitted only upon petition to the Director to restore jurisdiction over the application to the trademark examining attorney for consideration of the amendment and further examination. The amendment of an application that is the subject of an inter partes proceeding before the Trademark Trial and Appeal Board is governed by § 2.133.

23. Revise § 2.101 to read as follows:

§ 2.101 Filing an opposition.

(a) An opposition proceeding is commenced by filing a timely opposition, together with the required fee, in the Office.

(b) Any person who believes that he, she or it would be damaged by the registration of a mark on the Principal Register may file an opposition addressed to the Trademark Trial and Appeal Board. The opposition need not be verified, and must be signed by the opposer or the opposer's attorney, as specified in § 10.1(c) of this chapter, or

other authorized representative, as specified in § 10.14(b) of this chapter. Electronic signatures pursuant to § 1.4(d)(1)(iii) of this chapter are required for oppositions submitted electronically under paragraphs (b)(1) or (2) of this section.

(1) An opposition to an application based on section 1 or 44 of the Act must be filed either on paper or through ESTTA.

(2) An opposition to an application based on section 66(a) of the Act must be filed through ESTTA.

(c) The opposition must be filed within thirty days after publication (§ 2.80) of the application being opposed or within an extension of time (§ 2.102) for filing an opposition.

(d)(1) The opposition must be accompanied by the required fee for each party joined as opposer for each class in the application for which registration is opposed (see § 2.6).

(2) A timely opposition submitted through ESTTA will not be accepted if it is accompanied by a fee that is insufficient to pay in full for each named party opposer to oppose the registration of a mark in each class specified in the opposition.

(3) If a timely opposition is submitted on paper, the following is applicable if less than all required fees are submitted:

(i) If the opposition is accompanied by no fee or a fee insufficient to pay for one person to oppose the registration of a mark in at least one class, the opposition will be refused.

(ii) If the opposition is accompanied by fees sufficient to pay for one person to oppose registration in at least one class, but fees are insufficient to oppose registration in all the classes in the application, and the particular class or classes against which the opposition is filed are not specified, the opposition will be presumed to be against the class or classes in ascending numerical order, including only the number of classes in the application for which sufficient fees have been submitted.

(iii) If persons are joined as party opposers, each must submit a fee for each class for which opposition is sought. If the fees submitted are sufficient to pay for one person to oppose registration in at least one class, but are insufficient for each named party opposer, the first-named party will be presumed to be the party opposer. Additional parties will be deemed to be party opposers only to the extent that the fees submitted are sufficient to pay the fee due for each party opposer. If persons are joined as party opposers against a multiple class application, the fees submitted are insufficient, and no specification of opposers and classes is