

identified in the international application/registration; and

(4) To the best of his/her knowledge and belief, no other person, firm, corporation, association, or other legal entity has the right to use the mark in commerce that the United States Congress can regulate, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, firm, corporation, association, or other legal entity, to cause confusion, or to cause mistake, or to deceive.

■ 9. Amend § 2.34 as follows:

- a. By removing paragraphs (a)(1)(v), (a)(3)(iv), and (a)(4)(iv);
- b. By revising paragraphs (a), introductory text, (a)(2), (a)(4)(i)(A), and (b); and
- c. By adding new paragraph (a)(5).

§ 2.34 The revisions and addition read as follows: Bases for filing.

(a) The application must include one or more of the following five filing bases:

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(2) *Intent-to-use under section 1(b) of the Act.* In an application under section 1(b) of the Act, the applicant must verify that it has a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application. If the verification is not filed with the initial application, the verified statement must allege that the applicant had a bona fide intention to use the mark in commerce on or in connection with the goods or services listed in the application as of the filing date of the application.

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(4) * * *

(i) * * *

(A) Specify the filing date, serial number and country of the first regularly filed foreign application; or

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(5) *Extension of protection of an international registration under section 66(a) of the Act.* In an application under section 66(a) of the Act, the international application or subsequent designation requesting an extension of protection to the United States must contain a signed declaration that meets the requirements of § 2.33.

(b)(1) In an application under section 1 or section 44 of the Act, an applicant may claim more than one basis, provided the applicant satisfies all requirements for the bases claimed. However, the applicant may not claim both sections 1(a) and 1(b) for the identical goods or services in the same application.

(2) In an application under section 1 or section 44 of the Act, if an applicant claims more than one basis, the applicant must list each basis, followed by the goods or services to which that basis applies. If some or all of the goods or services are covered by more than one basis, this must be stated.

(3) A basis under section 66(a) of the Act cannot be combined with any other basis.

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■ 10. Revise § 2.35 to read as follows:

§ 2.35 Adding, deleting, or substituting bases.

(a) In an application under section 66(a) of the Act, an applicant may not add, substitute or delete a basis, unless the applicant meets the requirements for transformation under section 70(c) of the Act and § 7.31 of this chapter.

(b) In an application under section 1 or section 44 of the Act:

(1) Before publication for opposition, an applicant may add or substitute a basis, if the applicant meets all requirements for the new basis, as stated in § 2.34. The applicant may delete a basis at any time.

(2) After publication, an applicant may add or substitute a basis in an application that is not the subject of an *inter partes* proceeding before the Trademark Trial and Appeal Board, but only with the express permission of the Director, after consideration on petition. Republication will be required. The amendment of an application that is the subject of an *inter partes* proceeding before the Board is governed by § 2.133(a).

(3) When an applicant substitutes one basis for another, the Office will presume that there was a continuing valid basis, unless there is contradictory evidence in the record, and the application will retain the original filing date, including a priority filing date under section 44(d), if appropriate.

(4) If an applicant properly claims a section 44(d) basis in addition to another basis, the applicant will retain the priority filing date under section 44(d) no matter which basis the applicant perfects.

(5) The applicant may add or substitute a section 44(d) basis only within the six-month priority period following the filing date of the foreign application.

(6) When the applicant adds or substitutes a basis, the applicant must list each basis, followed by the goods or services to which that basis applies.

(7) When the applicant deletes a basis, the applicant must also delete any goods or services covered solely by the deleted basis.

(8) Once an applicant claims a section 1(b) basis as to any or all of the goods or services, the applicant may not amend the application to seek registration under section 1(a) of the Act for those goods or services unless the applicant files an allegation of use under section 1(c) or section 1(d) of the Act.

■ 11. Revise § 2.37 to read as follows:

§ 2.37 Description of mark.

A description of the mark may be included in the application and must be included if required by the trademark examining attorney.

■ 12. Amend § 2.47 by redesignating paragraphs (c) and (d) as paragraphs (d) and (e) and adding a new paragraph (c) to read as follows:

§ 2.47 Supplemental Register.

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(c) An application under section 66(a) of the Act is not eligible for registration on the Supplemental Register.

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■ 13. Revise § 2.51 to read as follows:

§ 2.51 Drawing required.

(a) In an application under section 1(a) of the Act, the drawing of the mark must be a substantially exact representation of the mark as used on or in connection with the goods and/or services.

(b) In an application under section 1(b) of the Act, the drawing of the mark must be a substantially exact representation of the mark as intended to be used on or in connection with the goods and/or services specified in the application, and once an amendment to allege use under § 2.76 or a statement of use under § 2.88 has been filed, the drawing of the mark must be a substantially exact representation of the mark as used on or in connection with the goods and/or services.

(c) In an application under section 44 of the Act, the drawing of the mark must be a substantially exact representation of the mark as it appears in the drawing in the registration certificate of a mark duly registered in the applicant's country of origin.

(d) In an application under section 66(a) of the Act, the drawing of the mark must be a substantially exact representation of the mark as it appears in the international registration.

■ 14. Revise § 2.52 to read as follows:

§ 2.52 Types of drawings and format for drawings.

A drawing depicts the mark sought to be registered. The drawing must show only one mark. The applicant must include a clear drawing of the mark