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Herbert C. Wamsley

October 22, 2012

Hon. David J. Kappos  
Under Secretary of Commerce for Intellectual Property  
And Director of the U.S. Patent and Trademark Office  
600 Dulany Street  
P.O. Box 1451  
Alexandria, VA 22313-1451  
Attn: Cynthia C. Lynch

Submitted Via Electronic Mail: [TMFRNotices@uspto.gov](mailto:TMFRNotices@uspto.gov)

**RE: Intellectual Property Owners Association comments in response to  
“Notice of Inquiry Regarding Adjustment of Fees for Trademark Applications,”  
77 Fed. Reg. 159 (August 16, 2012).**

Dear Under Secretary Kappos:

Intellectual Property Owners Association (IPO) thanks the United States Patent and Trademark Office (“Office”) for the opportunity to provide input and comments regarding the Notice of Inquiry Regarding Adjustment of Fees for Trademark Applications (“Notice”).

IPO is a trade association representing companies and individuals in all industries and fields of technology who own, or are interested in, intellectual property rights. IPO’s membership includes more than 200 companies and more than 12,000 individuals who are involved in the association either through their companies or as inventor, author, law firm, or attorney members.

IPO congratulates the Office for the continuing improvement of its electronic filing systems. IPO has found the Office very receptive to user input. IPO’s members also find the TEAS Support helpdesk very responsive in addressing the day-to-day issues that users encounter with the system. IPO believes that continuing to improve the TEAS and TEAS Plus systems, rather than adjusting the fee structure, is more likely to incentivize the use of these systems. IPO would welcome the opportunity to share its members’ insights and experiences with use of these systems to aid in this effort.

Returning to the specifics of the Notice, while IPO congratulates the Office on meeting its goals for improving the percentage of applications filed through TEAS Plus, we believe there is still room for improvement. If additional funds are received for certain filings, IPO would rather the money be used to improve aspects of TEAS and TEAS Plus, rather than to incentivize the use of TEAS Plus through a fee reduction.

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We note that users sometimes purposefully deviate from the all-electronic processing framework because of inadequacies with the electronic forms. We believe the user should not be penalized for the need to file outside the TEAS and TEAS Plus framework when the electronic forms do not adequately function for particular situations. While the TEAS and TEAS Plus helpdesk can often produce a work-around, this is time-consuming and may not result in an answer within the necessary filing time-frame. Moreover, the work-arounds offered sometimes require the user to input inaccurate information (for example, answer “no” to a wizard question when the real answer is “yes” so that the form will work), and then to enter the correct information in the “miscellaneous statement” field, which some users find worrisome.

One reason that TEAS Plus may not be used is that it requires the applicant to select a predefined description of goods and services from the Official Manual of Acceptable Identifications (“Manual”). IPO appreciates the Office’s efforts to improve the Manual to better meet user needs. Such improvements may incentivize greater use of TEAS Plus in the future. We are glad to have participated in past roundtables on this issue and appreciate the opportunity to provide a few additional suggestions now.

First, IPO finds that particularly with new and emerging technologies, which are dynamically changing, an appropriate identification may not be included in the Manual. While users can submit requests for additions to the Manual, this takes time. Even if the user’s suggestion is accepted, the user may have to wait up to a week until the identification appears in the Manual before a TEAS Plus filing can be made. Waiting even a week may result in loss of rights.

Second, a particular identification can be selected only once. An applicant who finds an identification to be apt, but wants to use it to describe more than one activity, is unable to do so. The following example illustrates this.

Acceptable Identification in the Manual: “Educational services, namely, conducting {indicate specific mode of instructions, e.g., classes, seminars, conferences, workshops} in the field of {indicate specific field, e.g., pet care, math} and distribution of course material in connection therewith.”

A TEAS Plus applicant cannot file for both “educational services, namely conducting **workshops** in the field of **soccer coaching** and distribution of course material in connection therewith” and also “educational services, namely conducting **conferences** in the field of **standards-setting for amateur athletics** and distribution of course material in connection therewith,” since this particular identification can be selected, and user-specific information entered in the brackets, only once. IPO believes that substantive issues like this are given more weight than a discounted filing fee in making a decision about whether to use TEAS Plus.

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In sum, IPO does not find that a reduced cost of filing for TEAS and TEAS Plus will significantly incentivize such filing over paper filings. Moreover, IPO encourages the Office to exercise caution so that the TEAS Plus filing is not reduced to the extent it is below operational costs and therefore TEAS and paper filers are penalized by an increased filing fee compensating for an under cost TEAS Plus filing system. IPO does not object to an additional fee being charged for paper filing commensurate with the additional administrative burden created by paper filing.

IPO appreciates the opportunity to comment. We look forward to working with the Office on forthcoming regulations and guidance.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'R. F. Phillips', written in a cursive style.

Richard F. Phillips  
President