



19 August 2016

The Honorable Michelle K. Lee
Under Secretary of Commerce for Intellectual Property &
Director of the United States Patent and Trademark Office
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, Virginia 22313-1451
Attention: Jennifer Chicoski

Via email: TMFRNotices@uspto.gov

**Re: IPO Comments on “Changes in Requirements for Affidavits or
Declarations of Use, Continued Use, or Excusable Nonuse in
Trademark Cases,” 81 Fed. Reg. 120 (June 22, 2016)**

Dear Director Lee:

Intellectual Property Owners Association (IPO) submits the following comments in response to the USPTO’s Federal Register notice (“Notice”) on “Changes in Requirements for Affidavits or Declarations of Use, Continued Use or Excusable Nonuse in Trademark Cases” (81 Fed. Reg. 120)

IPO is an international 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 membership spans 50 countries. IPO advocates for effective and affordable IP ownership rights and provides a wide array of services to members, including supporting member interests relating to legislative and international issues; analyzing current intellectual property issues; information and educational services; and disseminating information to the general public on the importance of intellectual property rights.

IPO appreciates the USPTO allowing stakeholders the opportunity to provide comments on the proposed regulatory changes to require additional proof of use to verify the accuracy of claims that a trademark is in use in connection with particular goods or services. IPO supports the proposed changes and provides a suggestion for the USPTO’s consideration.

The “Post Registration Proof-of-Use Pilot Program” discussed in the Notice revealed that 51% of registrants selected for random audit could not substantiate use of their marks after filing an affidavit or declaration of use under Lanham Act section 8 or 71. The USPTO removed from the registration any goods or services for which a registrant could not substantiate use, which helped to increase the accuracy and integrity of the trademark

President
Kevin H. Rhodes
3M Innovative Properties Co.

Vice President
Henry Hadad
Bristol-Myers Squibb Co.

Treasurer
Daniel J. Staudt
Siemens

Directors
Steven Arnold
Micron Technology, Inc.
Stephen W. Bauer
Medtronic, Inc.
Edward Blocker
Koninklijke Philips N.V.
Tina M. Chappell
Intel Corp.
John Conway
Sanofi
William J. Coughlin
Ford Global Technologies LLC
Anthony DiBartolomeo
SAP AG
Daniel Enebo
Cargill, Inc.
Barbara A. Fisher
Lockheed Martin
Louis Foreman
Enventys
Scott M. Frank
AT&T
Darryl P. Frickey
Dow Chemical Co.
Gary C. Ganzi
Evoqua Water
Technologies LLC
Krish Gupta
EMC Corporation
Carl B. Horton
General Electric Co.
Philip S. Johnson
Johnson & Johnson
Thomas R. Kingsbury
Bridgestone Americas
Holding Co.
Charles M. Kinzig
GlaxoSmithKline
Joseph C. Kirincich
Avaya Inc.
David J. Koris
Shell International B.V.
William Krovatin
Merck & Co., Inc.
Dan Lang
Cisco Systems, Inc.
Allen Lo
Google Inc.
Timothy Loomis
Qualcomm, Inc.
Thomas P. McBride
Monsanto Co.
Todd Messal
Boston Scientific Co.
Steven W. Miller
Procter & Gamble Co.
Micky Minhas
Microsoft Corp.
Rimma Mitelman
Unilever
Douglas K. Norman
Eli Lilly and Co.
Richard F. Phillips
Exxon Mobil Corp.
Dana Rao
Adobe Systems Inc.
Curtis Rose
Hewlett-Packard Enterprise
Matthew Sarboraria
Oracle Corp.
Manny Schecter
IBM, Corp.
Steven Shapiro
Pitney Bowes Inc.
Jessica Sinnott
DuPont
Dennis C. Skarvan
Caterpillar Inc.
Brian R. Suffredini
United Technologies, Corp.
James J. Trussell
BP America, Inc.
Phyllis Turner-Brim
Intellectual Ventures, LLC
Roy Waldron
Pfizer, Inc.
BJ Watrous
Apple Inc.
Stuart Watt
Amgen, Inc.
Steven Wildfeuer
RELX Group
Mike Young
Roche Inc.

General Counsel
Michael D. Nolan
Milbank Tweed

Executive Director
Mark W. Lauroesch

INTELLECTUAL PROPERTY OWNERS ASSOCIATION

register. Because these are important achievements that benefit trademark registrants and the public alike, IPO supports making the pilot a permanent program.

IPO recognizes that the program will impose a financial burden on those registrants randomly selected to respond to the USPTO. To reduce this burden and provide valuable information in the trademark register about the scope and nature of a registrant's use, IPO suggests that the USPTO offer registrants the option to elect out of the random audit program by voluntarily providing evidence of use for each good or service in a class. The election could be as simple as a checked box on the form at the time of filing a section 8 or 71 affidavit.

We thank you for considering these comments and welcome any further opportunity to assist the USPTO's efforts in improving the accuracy and integrity of the trademark register.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark W. Lauroesch". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mark W. Lauroesch
Executive Director