

THE WRITTEN APPLICATION

§ 2.31 Application must be in English.

The application must be in the English language and plainly written on but one side of the paper. It is preferable that the application be on lettersize (i.e., 8½ inches, 21.6 cm., by 11 inches, 27.9 cm.) paper, typewritten double spaced, with at least a one and one-half inch (3.8 cm.) margin on the left-hand side and top of the page.

[54 FR 37589, Sept. 11, 1989]

§ 2.32 Application to be signed and sworn to or include a declaration by applicant.

(a) The application must be made to the Commissioner of Patents and Trademarks and must be signed and verified (sworn to) or include a declaration in accordance with § 2.20 by the applicant or by a member of the firm or an officer of the corporation or association applying.

(b) Re-executed papers or a statement which is verified or which includes a declaration in accordance with § 2.20 of continued use of the mark may be required when the application has not been filed in the Patent and Trademark Office within a reasonable time after the date of execution.

(c) The signature to the application must be the correct name of the applicant, since the name will appear in the certificate of registration precisely as it is signed to the application. The name of the applicant, wherever it appears in the papers of the application, will be made to agree with the name as signed.

§ 2.33 Requirements for written application.

(a)(1) The application shall include a request for registration and shall specify:

- (i) The name of the applicant;
- (ii) The citizenship of the applicant; if the applicant is a partnership, the state or nation under the laws of which the partnership is organized and the names and citizenship of the general partners or, if the applicant is a corporation or association, the state or nation under the laws of which the corporation or association is organized;

(iii) The domicile and post office address of the applicant;

(iv) In an application under section 1(a) of the Act, that the applicant has adopted and is using the mark shown in the accompanying drawing, or, in an application under section 1(b) or 44 of the Act, that the applicant has a bona fide intention to use the mark shown in the accompanying drawing in commerce;

(v) In an application under section 1(a) of the Act, the particular goods or services on or in connection with which the mark is used or, in an application under section 1(b) or 44 of the Act, the particular goods or services on or in connection with which the applicant has a bona fide intention to use the mark, which in an application under section 44 may not exceed the scope of the goods or services covered by the foreign application or registration;

(vi) The class of goods or services according to the official classification, if known to the applicant;

(vii) In an application under section 1(a) of the Act, the date of applicant's first use of the mark as a trademark or service mark on or in connection with goods or services specified in the application and the date of applicant's first use in commerce of the mark as a trademark or service mark on or in connection with goods or services specified in the application, specifying the nature of such commerce (see § 2.38);

(viii) In an application under section 44(e) of the Act for registration of a mark duly registered in the applicant's country of origin, as that term is defined in section 44(c), accompanying the application, a certificate of the trademark office of the applicant's country of origin showing that the mark has been registered in such country and also showing the mark, the goods or services for which the mark is registered, the date of filing of the application on the basis of which registration was granted and that said registration is in full force and effect and, if the certificate is not in the English language, a translation thereof;

(ix) In an application claiming the benefit of a foreign application in accordance with section 44(d) of the Act,

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compliance with the requirements of § 2.39;

(x) In an application under section 1(a) of the Act, the mode, manner or method of applying, affixing or otherwise using the mark on or in connection with the goods or services specified or, in an application under section 1(b) of the Act, the intended mode, manner or method of applying, affixing or otherwise using the mark on or in connection with the goods or services specified.

(2) If more than one item of goods or services is specified in the application, the dates of use required in paragraph (a)(1)(vii) of this section need be for only one of the items specified, provided the particular item to which the dates apply is designated.

(3) The word *commerce* as used throughout this part means commerce which may lawfully be regulated by Congress, as specified in section 45 of the Act.

(b)(1) In an application under section 1(a) of the Act, the application must include averments to the effect that the applicant is believed to be the owner of the mark sought to be registered; that the mark is in use in commerce, specifying the nature of such commerce; that no other entity, to the best of the declarant's knowledge and belief, has the right to use such mark in commerce, either in the identical form or in such near resemblance as to be likely, when applied to the goods or services of such other entity, to cause confusion, or to cause mistake, or to deceive; that the specimens or facsimiles show the mark as used on or in connection with the goods or services; and that the facts set forth in the application are true; or

(2) In an application under section 1(b) or 44 of the Act, the application must include averments to the effect that the applicant is believed to be the owner of the mark sought to be registered; that the applicant has a bona fide intention to use the mark in commerce on or in connection with the specified goods or services; that no other entity, to the best of the declarant's knowledge and belief, has the right to use such mark in commerce, either in the identical form or in such near resemblance as to be likely, when

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applied to the goods or services of such other entity, to cause confusion, or to cause mistake, or to deceive; and that the facts set forth in the application are true.

(c) For an application for the registration of a mark for goods or services falling within multiple classes, see § 2.86.

(d) An applicant may not file under both sections 1(a) and 1(b) of the Act in a single application, nor may an applicant in an application under section 1(a) of the Act amend that application to seek registration under section 1(b) of the Act.

[51 FR 28709, Aug. 11, 1986, as amended at 54 FR 37589, Sept. 11, 1989; 54 FR 46231, Nov. 2, 1989]

§ 2.35 Description of mark.

A description of the mark, which must be acceptable to the Examiner of Trademarks, may be included in the application, and must be included if required by the examiner. If the mark is displayed in color or a color combination, the colors should be described in the application.

§ 2.36 Identification of prior registrations.

Prior registrations of the same or similar marks owned by the applicant should be identified in the application.

§ 2.37 Authorization for representation; U.S. representative.

The authorization of a qualified person to represent applicant (§ 2.17(b)) and the designation of a domestic representative (§ 2.24) may be included as a paragraph or paragraphs in the application.

[41 FR 758, Jan. 5, 1976]

§ 2.38 Use by predecessor or by related companies.

(a) If the first use, the date of which is required by paragraph (a)(1)(vii) of § 2.33, was by a predecessor in title, or by a related company (sections 5 and 45 of the Act), and such use inures to the benefit of the applicant, the date of such first use may be asserted with a statement that such first use was by the predecessor in title or by the related company as the case may be.