

§ 2.27 Pending trademark application index; access to applications.

(a) An index of pending applications including the name and address of the applicant, a reproduction or description of the mark, the goods or services with which the mark is used, the class number, the dates of use, and the serial number and filing date of the application will be available for public inspection as soon as practicable after filing.

(b) Except as provided in paragraph (e) of this section, access to the file of a particular pending application will be permitted prior to publication under § 2.80 upon written request.

(c) Decisions of the Director and the Trademark Trial and Appeal Board in applications and proceedings relating thereto are published or available for inspection or publication.

(d) Except as provided in paragraph (e) of this section, after a mark has been registered, or published for opposition, the file of the application and all proceedings relating thereto are available for public inspection and copies of the papers may be furnished upon paying the fee therefor.

(e) Anything ordered to be filed under seal pursuant to a protective order issued or made by any court or by the Trademark Trial and Appeal Board in any proceeding involving an application or a registration shall be kept confidential and shall not be made available for public inspection or copying unless otherwise ordered by the court or the Board, or unless the party protected by the order voluntarily discloses the matter subject thereto. When possible, only confidential portions of filings with the Board shall be filed under seal.

[36 FR 25406, Dec. 31, 1971, as amended at 48 FR 23134, May 23, 1983; 48 FR 27225, June 14, 1983]

THE WRITTEN APPLICATION

§ 2.31 [Reserved]

§ 2.32 Requirements for a complete application.

(a) The application must be in English and include the following:

- (1) A request for registration;
- (2) The name of the applicant(s);

(3)(i) The citizenship of the applicant(s); or

(ii) If the applicant is a corporation, association, partnership or other juristic person, the jurisdiction (usually state or nation) under the laws of which the applicant is organized; and

(iii) If the applicant is a partnership, the names and citizenship of the general partners;

(4) The address of the applicant;

(5) One or more bases, as required by § 2.34(a);

(6) A list of the particular goods or services on or in connection with which the applicant uses or intends to use the mark. In a United States application filed under section 44 of the Act, the scope of the goods or services covered by the section 44 basis may not exceed the scope of the goods or services in the foreign application or registration; and

(7) The international class of goods or services, if known. See § 6.1 of this chapter for a list of the international classes of goods and services.

(b) The application must include a verified statement that meets the requirements of § 2.33.

(c) The application must include a drawing that meets the requirements of §§ 2.51 and 2.52.

(d) The application must include fee required by § 2.6 for each class of goods or services.

(e) For the requirements for a multiple class application, see § 2.86.

[64 FR 48918, Sept. 8, 1999]

§ 2.33 Verified statement.

(a) The application must include a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant. A person who is properly authorized to sign on behalf of the applicant is:

(1) A person with legal authority to bind the applicant; or

(2) A person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the applicant; or

(3) An attorney as defined in § 10.1(c) of this chapter who has an actual or implied written or verbal power of attorney from the applicant.

(b)(1) In an application under section 1(a) of the Act, the verified statement must allege:

That the applicant has adopted and is using the mark shown in the accompanying drawing; that the applicant believes it is the owner of the mark; that the mark is in use in commerce; that to the best of the declarant's knowledge and belief, no other person has the right to use the 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 the other person, to cause confusion or mistake, or to deceive; that the specimen shows the mark as used on or in connection with the goods or services; and that the facts set forth in the application are true.

(2) In an application under section 1(b) or section 44 of the Act, the verified statement must allege:

That the applicant has a bona fide intention to use the mark shown in the accompanying drawing in commerce on or in connection with the specified goods or services; that the applicant believes it is entitled to use the mark in commerce; that to the best of the declarant's knowledge and belief, no other person has the right to use the 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 the other person, to cause confusion or mistake, or to deceive; and that the facts set forth in the application are true.

(c) If the verified statement is not filed within a reasonable time after it is signed, the Office may require the applicant to submit a substitute verification or declaration under § 2.20 of the applicant's continued use or bona fide intention to use the mark in commerce.

(d) Where an electronically transmitted filing is permitted, the person who signs the verified statement must either:

(1) Place a symbol comprised of numbers and/or letters between two forward slash marks in the signature block on the electronic submission; or

(2) Sign the verified statement using some other form of electronic signature specified by the Director.

(e) In an application under section 66(a) of the Act, the verified statement is part of the international registration on file at the International Bureau. The verified statement must allege that:

(1) The applicant/holder has a bona fide intention to use the mark in commerce that the United States Congress can regulate on or in connection with the goods/services identified in the international application/subsequent designation;

(2) The signatory is properly authorized to execute this declaration on behalf of the applicant/holder;

(3) The signatory believes the applicant/holder to be entitled to use the mark in commerce that the United States Congress can regulate on or in connection with the goods/services 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.

[64 FR 48918, Sept. 8, 1999, as amended 67 FR 79522, Dec. 30, 2002; 68 FR 55762, Sept. 26, 2003]

§ 2.34 Bases for filing.

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

(1) *Use in commerce under section 1(a) of the Act.* The requirements for an application based on section 1(a) of the Act are:

(i) The trademark owner's verified statement that the mark is in use 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 mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date;

(ii) The date of the applicant's first use of the mark anywhere on or in connection with the goods or services;

(iii) The date of the applicant's first use of the mark in commerce as a trademark or service mark; and