

U.S. Patent and Trademark Office, Commerce

§ 2.72

application signed by the applicant, or the attorney or other person representing the applicant. Except as provided in § 2.135, the fact that an application has been expressly abandoned shall not, in any proceeding in the Patent and Trademark Office, affect any rights that the applicant may have in the mark which is the subject of the abandoned application.

[54 FR 34897, Aug. 22, 1989]

§ 2.69 Compliance with other laws.

When the sale or transportation of any product for which registration of a trademark is sought is regulated under an Act of Congress, the Patent and Trademark Office may make appropriate inquiry as to compliance with such Act for the sole purpose of determining lawfulness of the commerce recited in the application.

[54 FR 37592, Sept. 11, 1989]

AMENDMENT OF APPLICATION

§ 2.71 Amendments to correct informalities.

The applicant may amend the application during the course of examination, when required by the Office or for other reasons.

(a) The applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services.

(b)(1) If the declaration or verification of an application under § 2.33 is unsigned or signed by the wrong party, the applicant may submit a substitute verification or declaration under § 2.20.

(2) If the declaration or verification of a statement of use under § 2.88, or a request for extension of time to file a statement of use under § 2.89, is unsigned or signed by the wrong party, the applicant must submit a substitute verification before the expiration of the statutory deadline for filing the statement of use.

(c) The applicant may amend the dates of use, provided that the applicant supports the amendment with an affidavit or declaration under § 2.20, except that the following amendments are not permitted:

(1) In an application under section 1(a) of the Act, the applicant may not amend the application to specify a date of use that is subsequent to the filing date of the application;

(2) In an application under section 1(b) of the Act, after filing a statement of use under § 2.88, the applicant may not amend the statement of use to specify a date of use that is subsequent to the expiration of the deadline for filing the statement of use.

(d) The applicant may amend the application to correct the name of the applicant, if there is a mistake in the manner in which the name of the applicant is set out in the application. The amendment must be supported by an affidavit or declaration under § 2.20, signed by the applicant. However, the application cannot be amended to set forth a different entity as the applicant. An application filed in the name of an entity that did not own the mark as of the filing date of the application is void.

[64 FR 48922, Sept. 8, 1999]

§ 2.72 Amendments to description or drawing of the mark.

(a) In an application based on use in commerce under section 1(a) of the Act, the applicant may amend the description or drawing of the mark only if:

(1) The specimens originally filed, or substitute specimens filed under § 2.59(a), support the proposed amendment; and

(2) The proposed amendment does not materially alter the mark. The Office will determine whether a proposed amendment materially alters a mark by comparing the proposed amendment with the description or drawing of the mark filed with the original application.

(b) In an application based on a bona fide intention to use a mark in commerce under section 1(b) of the Act, the applicant may amend the description or drawing of the mark only if:

(1) The specimens filed with an amendment to allege use or statement of use, or substitute specimens filed under § 2.59(b), support the proposed amendment; and

(2) The proposed amendment does not materially alter the mark. The Office