

limited by the class, pursuant to § 2.85(d).

[73 FR 67770, Nov. 17, 2008]

§ 2.86 Application may include multiple classes.

(a) In a single application, an applicant may apply to register the same mark for goods and/or services in multiple classes. The applicant must:

(1) Specifically identify the goods or services in each class;

(2) Submit an application filing fee for each class, as set forth in § 2.6(a)(1); and

(3) Include either dates of use (see §§ 2.34(a)(1)(ii) and (iii)) and one specimen for each class, or a statement of a bona fide intention to use the mark in commerce on or in connection with all the goods or services specified in each class. The applicant may not claim both use in commerce and a bona fide intention to use the mark in commerce for the identical goods or services in one application.

(b) An amendment to allege use under § 2.76 or a statement of use under § 2.88 must include, for each class, the required fee, dates of use, and one specimen. The applicant may not file the amendment to allege use or statement of use until the applicant has used the mark on all the goods or services, unless the applicant files a request to divide. See § 2.87 for information regarding requests to divide.

(c) The Office will issue a single certificate of registration for the mark, unless the applicant files a request to divide. See § 2.87 for information regarding requests to divide.

[64 FR 48923, Sept. 8, 1999, as amended at 70 FR 2953, Jan. 19, 2005; 73 FR 67771, Nov. 17, 2008]

§ 2.87 Dividing an application.

(a) *Application may be divided.* An application may be divided into two or more separate applications upon the payment of a fee for each new application created and submission by the applicant of a request in accordance with paragraph (d) of this section.

(b) *Fee.* In the case of a request to divide out one or more entire classes from an application, only the fee for dividing an application as set forth in

§ 2.6(a)(19) will be required. However, in the case of a request to divide out some, but not all, of the goods or services in a class, the applicant must submit the application filing fee as set forth in § 2.6(a)(1) for each new separate application to be created by the division, in addition to the fee for dividing an application.

(c) *Time for filing.* (1) A request to divide an application may be filed at any time between the application filing date and the date on which the trademark examining attorney approves the mark for publication; or during an opposition, concurrent use, or interference proceeding, upon motion granted by the Trademark Trial and Appeal Board.

(2) In an application under section 1(b) of the Act, a request to divide may also be filed with a statement of use under § 2.88 or at any time between the filing of a statement of use and the date on which the trademark examining attorney approves the mark for registration.

(3) In a multiple-basis application, a request to divide out goods or services having a particular basis may also be filed during the period between the issuance of the notice of allowance under section 13(b)(2) of the Act and the filing of a statement of use under § 2.88.

(d) *Form.* A request to divide an application should be made in a separate document from any other amendment or response in the application. The title “Request to Divide Application” should appear at the top of the first page of the document.

(e) *Outstanding time periods apply to newly created applications.* Any time period for action by the applicant which is outstanding in the original application at the time of the division will apply to each separate new application created by the division, except as follows:

(1) If an Office action pertaining to less than all the classes in a multiple-class application is outstanding, and the applicant files a request to divide out the goods, services, and/or class(es) to which the Office action does not pertain before the response deadline, a response to the Office action is not due in