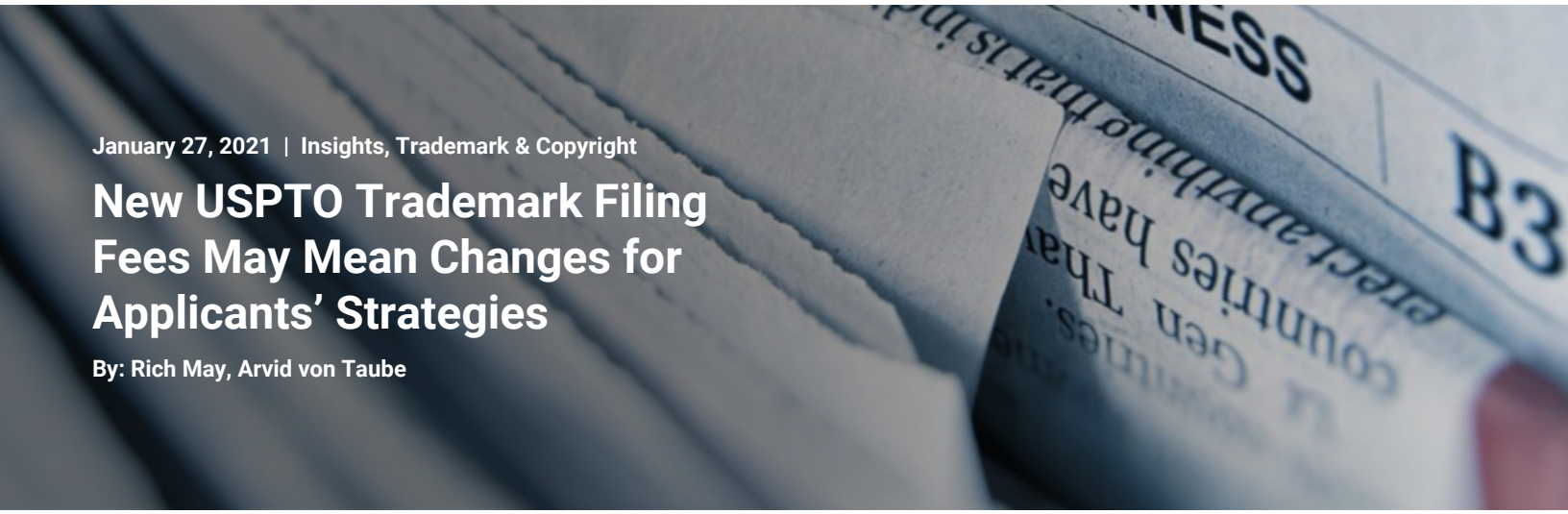


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New USPTO Trademark Filing Fees May Mean Changes for Applicants' Strategies

By: Rich May, Arvid von Taube

On January 2, 2021, the United States Patent and Trademark Office (USPTO) implemented certain increases, adjustments, and even some decreases, to its trademark filing fees. A full schedule of the new fees is available here. These fee adjustments come nearly three years after the last round of fee updates by the USPTO. Changes to certain of the fees may force applicants to consider adjusting their application strategies.

The most relevant changes are to the fees for the two types of applications that a trademark applicant can file with the USPTO. The filing fee for the TEAS Standard Application increased from $275 per class to $350 per class. The Standard Application allows applicants to craft their own, unique class descriptions and are not required to conform to the USPTO's Identification Manual when drafting. On the other hand, the fee for the other type of trademark application, the TEAS Plus Application, only increased from $225 per class to $250 per class.

The Plus Application requires applicants to conform their class descriptions for goods and services to pre-defined descriptions in the USPTO's Identification Manual. The lower fee makes sense, considering that the USPTO examiner's review time should be shorter for a TEAS Plus Application than that of a Standard Application. This change is undoubtedly designed to encourage more applicants to the Plus Application and abide by standardized class descriptions, thereby shifting much of the work onto the applicant that USPTO examiners formerly did for applicants. Shorter review time by the examiner could result in a faster application process as well. For basic goods such as articles of clothing and common services such as consulting services, this is an easy task. But even with more specialized services, there are often entries in the Identification Manual that allow for customization, such as Class 35's common online retail store description that begins, "On-line retail store services featuring [applicant can freely insert its description of goods here]".

If an applicant fails to meet all the requirements of a Plus Application after filing, such as incorrectly classifying its good or services, the "penalty" fee to the USPTO has been



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reduced from $125 per class to $100 per class, for a total per class of $350. This is designed to line up the filing fee with that of the Standard Application.

Additional fee increases of note include the following:

1. The common maintenance filing (Section 8 or 71 Declaration) between the fifth and sixth years after registration, formerly $125 per class, increased to $225 per class.
2. A new fee of $250 per class for the deletion of any goods, services or classes from a registration after submitting the Section 8 or 71 Declaration, but before it is accepted by the USPTO. There formerly was no fee associated with this action.
3. The fee to petition to revive an abandoned application has increased from $100 to $150.

Finally, several USPTO Trademark Trial and Appeal Board (TTAB) cancellation and opposition fees have significantly increased, some by as much as $200 per class, and requests for oral hearings now have a fee of $500 per proceeding, whereas before there was no fee for such a request.

Although the new USPTO trademark filing fees may not have a big impact on single class applications, the increase could have a material effect over multi-class applications, and multiple simultaneous applications.

We are happy to answer any questions that you may have or assist in your trademark application strategy or maintenance of an existing portfolio. Please reach out to Arvid von Taube or any member of our firm's Trademark & Copyright group.

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