

Trademark Application Process, Timing, Costs

Application Process: Preparation and Filing

1. You suggest one or more candidate marks to law office. (Or, law office provides you a list of potential candidate marks based on "reverse dead-mark" searching.)
2. Law office conducts an availability search in the US to determine if a candidate mark could possibly infringe one or more prior marks owned by others in the US.
3. Law office reports search results to you with analysis and recommendation.
4. We discuss and decide whether (i) to file intent-to-use application, (ii) standard mark or design mark.
5. If application encounters no technical filing issues, we will most likely hear nothing from USPTO (trademark office) for about 10 months. (Therefore, it is always better to start the application process about a year before labeling bottles and shipping.)
6. If examination of the application goes well in the USPTO, we have a good idea if the mark will likely be allowed about 10 months after filing. If the trademark office rejects the mark, then we can discuss whether to argue against the decision or simply to accept it and consider options.
7. Unfortunately, there are no guarantees in the universe of trademark applications and examination in the USPTO or other national trademark offices. All we can do is use our best judgment to increase probabilities of successful registration.

Typical Application Costs

1. Attorney fee for availability search, analysis, discussion: \$200-500

This search fee is charged even if it is decided **not** to file an application.

2. USPTO official application filing fee: \$250 (rarely \$350)

Attorney fee to prepare application: \$250

So, the total search/application cost is usually about \$US700-1000

The typical attorney fees shown above are based on an hourly billing rate of \$250 per hour. The attorney fees include preparing and filing the application, managing routine correspondence with the USPTO, and forwarding correspondence to you.

Application Time Frame

If you engage the services of IP Law USA by sending payment (check, venmo, or bank wire transfer), a mark-availability search, analysis/reporting/discussion of search results, and application could be completed as quickly as in about 3-5 days.

As noted above, we do not expect to hear from the USPTO for up to 10 months after filing an application.

Additional Costs

Until registration of a trademark (if it happens), the processing of an intent-to-use application always includes preparation and filing of additional documents and payment of additional USPTO and attorney fees, usually in the range of \$500 to \$1500 per application.

As noted above, if the mark is rejected during examination in the trademark office, we must discuss and decide whether to "fight" the examiner's negative decision. The most usual type of rejection is based on "likelihood of confusion" of the mark with one or more other, registered marks. The cost of preparing a response to contest such a rejection is in the range of US\$2,000 – US\$4,000, again with no guarantee of success.

If you would like to learn more about the protection and enforcement of intellectual property rights, [click here to CONTACT](#) Law Office of Thomas J Swenson or call **303-440-7800**.

Copyright © 2023 Thomas Swenson

Disclosure: This information is intended for educational use only. No client or potential client should assume that any information presented or made available on or through this article or linked websites may be construed as personalized planning or advice. Personalized legal planning and advice can only be rendered after engagement of the firm for services. Please contact [IP Law-USA](#) for further information.

Internal Revenue Service Circular 230 Disclosure: As provided for in Treasury regulations, advice (if any) relating to federal taxes that is contained herein (including attachments and links) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any transaction or matter addressed herein.