

**From:** [megan.cordier](#)  
**To:** [Fee Setting: TM FR Notices: Cain, Catherine](#)  
**Subject:** LOP Fees - Place fees on trademark filers not those who have a right to protest frivolous trademark applications  
**Date:** Monday, September 23, 2019 9:05:11 PM

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To Whom It May Concern:

As a small business owner in the online retail space, I have learned that what I have read in the guidelines on the [uspto.gov](#) website is not what is actually occurring in the trademark world with regard to class 025 specifically. I see many trademarks filed for class 025 that should never be considered based on USPTO's own guidelines.

Widely-used words and phrases such as "Dogs" (5843989), "Not Today" (5247946), "Football Mom" (4783661) and "Busy Mom" (5250857) have a registration number meaning that at a minimum they made it past the examining attorney's "complete examination" as defined by the Trademark Manual of Examining Procedure (TMEP). In reality, the words above, and many more, should instead have received a "failure-to-function" refusal on the grounds that the word(s) does not function as a trademark or service mark. And yet that have not.

The only recourse myself and other small business owners like me have is to file a letter of protest (LOP). In 2019, there has been such an influx of LOPs filed against frivolous trademarks that the USPTO has proposed a \$100 or more fee for each. LOPs are only necessary because small business owners have not been properly protected by the USPTO.

I am asking that the Commissioner of Trademarks remove any consideration of charging a fee for filing LOPs until changes have been made to ensure the TMEP is being followed. This fee will harm my ability as a small business owner to continually protest when the government agency whose duty it is to uphold the trademark laws is negligent in doing so. Additionally, if a fee must be charged, I would propose charging a fee to applicants whose applied-for mark does not function as a mark and receives a "failure-to-function" refusal according to TMEP 904.07(b). This may help reduce the current influx of frivolous trademark applications being submitted to the USPTO.

Sincerely , A concerned small business owner  
Megan Cordier