

From: [Olive Loves Apple](#)
To: [TM FR Notices](#)
Subject: Fee Setting
Date: Monday, September 23, 2019 12:06:04 AM

To Whom It May Concern,

This letter is in regards to the \$100 proposed fee for a Letter Of Protest (LOP) to be filed. To be completely blunt, I find this proposal appalling. As a small business owner, it is very difficult and challenging to run an operation and employ individuals in the competitive space we are in. I find this new proposed policy to be anti-competitive and in complete opposition to the intent of what USPTO is supposed to be doing in their reviews of trademark applications.

There are so many examples of USPTO letting what we call "frivolous" marks go through, seemingly without much review. The LOP process allows the public to call to attention such frivolous marks and as such, should make the examiner's job much easier. The USPTO has been approving some pretty obvious single word, ornamental designs and common phrases without much thought or effort. As such, USPTO has been complicit in anti-competitive behaviors and the LOP tool simply helps honest individuals and businesses to maintain some degree of an ability to compete against those companies and individuals who would abuse USPTO's lack of interest or resources in researching applications. When this happens without opposition, frivolous trademarks make it to an issued/live registration. At that point, the trademark holder will issue takedown notices to people using these phrases or single words on products they may sell.

For example: The trademark issued for the phrase "DOGS". There may be thousands of companies out there selling T-shirts that use the word Dogs on the shirt in an ornamental way, however the trademark holder can issue takedown notices to each of those shop owners on Etsy, Amazon, or any marketplace where those items are sold. At best, the shop owners lose the income from those individual products, at worst, they may have been too sent many takedown notices sent from frivolous trademark holders and that business is shut down.

As the CEO of Olive Loves Apple Inc. we currently employ 10 full time workers and have invested well into the hundreds of thousands of dollars in equipment for making products. The greatest fear we have as a business is that more of these frivolous marks will continue to get issued and USPTO creates a landscape that is anti-competitive and that hurts small businesses like ours. It won't happen overnight, however if the LOP process is changed to include the \$100 fee and USPTO doesn't start doing it's job in researching trademark validity, then eventually more frivolous marks will be applied for and less opposition letters will be sent.

I think USPTO needs to look long and hard about the intent of adding this fee and see that with the current "free" setup the public is doing a great deal of work that the examiner should be doing. It's understood that the reason the examiners let so many frivolous marks through is that they are not familiar with the particular category and implication of issuing such marks. Adding this \$100 fee will increase application and will do a great detriment to the amount of work each examiner will have to do without the help of the well aware public.

It is my hope that USPTO will not pass this fee change. It is outrageous to think that we

would have to pay money to oppose a frivolous mark. In addition to not adding this fee, it is my absolute hope that USPTO examiners will take frivolous marks more seriously and understand the far reaching implication of their approvals of marks that should have never been taken seriously to begin with.

To display the absurdity of some of these marks, please take note that if my company were to list an item for sale that had any of these words displayed ornamentally on a T-shirt, that I am infringing on the trademark holder and my item can receive a takedown notice/ or my business could be shut down:

A shirt that says "Ginger", "Duh", "Rematch", "War", "Neighborhood", "Be The Man", "Busy Mom", "Not Today", "Mommy to be", "Volleyball Life", "Football Mom", "Baseball Mom", "Softball Mom", "I Love My Wife", "Dogs", "Wifey", "Hubby", "Team Bride", "Boymom" and the list goes on and on...

An example you may want to review is "Boymom". For example, writing the phrase "Boy Mama" could cause brand confusion and therefore is infringing on this "brand". It's absolutely absurd and this fee will make things worse. Please do the common sense and ethical thing here and not only do not add the fee, but rather go back and reverse some of these frivolous marks and make a statement that USPTO is not anti-competitive or incompetent and set a standard for what is an acceptable trademark.

Sincerely,

Todd Swenddal
Chief Executive Officer
Olive Loves Apple Inc.