

# Review

## Intellectual Property

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### Revised fees and new services for trade mark applications

Following the publication of its Consultation Paper, *'Helping businesses register trade marks and patents'* last March, the IPO has announced changes to the fees and services available for registration of new trade marks.

The changes, which take effect on **1 October 2009**, are primarily aimed at encouraging small businesses to protect their brands by making registrations cheaper, faster and easier. However, their wide scope means the changes apply to any person or business seeking to register a trade mark.

#### E-Filing Changes

The majority of the changes impact trade mark applications made online (Form e-TM3 - <http://www.ipo.gov.uk/types/tm/t-os/t-apply-online.htm>). For new online applications submitted on or after 1 October 2009, trade mark applicants can choose between the Right Start application service and the E-Filing Discount.

#### Right Start

The Right Start scheme is an 'early assist service' which allows a trade mark application to be filed for initial examination for £100, half of the usual £200 fee for one class (with the fee for any additional classes of goods/services being £25 per class, rather than £50).

The initial fees are non-refundable and must be paid immediately upon filing, via the usual methods of credit/debit card payments or through an IPO deposit account. The remaining fees become payable if the applicant decides to continue to registration.

To benefit from the Right Start scheme discount, the initial application must be filed online using Form e-TM3 (telephone assistance is available).

Once the application is received, the IPO issues an examination report within 10 business days, stating whether the trade mark can be registered and detailing any problems. If there are no problems highlighted in the report, trade mark applicants can continue with the application by paying the remainder of the fees within 14 days of the date of the examination report.

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Where the IPO decide that the trade mark cannot be registered and/or there are detailed problems with the application, these can be discussed over the telephone.

At this stage there are three options:

- **Option 1:** abandon the trade mark application, having paid the initial fees (non refundable). The trade mark is not registered.
- **Option 2:** discuss the problems with the IPO and agree solutions. Pay the remaining application fees within 14 days of the date of the examination report.
- **Option 3:** contest the IPO report findings. Continue with the application and pay the remaining fees within 14 days of the date of the examination report.

### **E-Filing Discount**

The E-Filing Discount comprises a reduction of £30 which is applied to the total trade mark registration fees payable.

An applicant will be eligible for an e-filing discount where:

- an e-filing trade mark application is used (including the fast track application service and applications for series of marks); and
- the applicant pays the fee in full at the time of the application.

The e-filing discount does not apply to Right Start applications. When submitting an application, applicants should consider whether to use the e-filing discount for prompt payment or defer payments by using the Right Start scheme.

### **Series of Marks**

The number of marks in a series which can be submitted will be capped at six marks (to include the main trade mark and 5 variants).

For the third, fourth, fifth and sixth mark in the series a fee of £50 per variation will be payable.

Currently, an applicant can divide their application to allow approved variants in a series to be registered, whilst any variants not yet approved by the IPO are dealt with separately. This provision will be removed on 1 October 2009. Instead, variants which are not accepted by the IPO must be deleted to allow the application to proceed.

Where an applicant wants to make a Right Start application for a series of marks, the full series fees for variants will apply (i.e. £50 for each of the third, fourth, fifth and sixth variant).

### **Extensions of Time**

The fee for submission of a Form TM9 to request an extension of time in tribunal proceedings or extend a missed deadline in examination matters has been increased to £100.

## **FURTHER INFORMATION**

For further information please contact:

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