

in the case of an application to be placed in interference or concurrent use proceedings, if otherwise registrable.

[41 FR 758, Jan. 5, 1976]

§ 2.81 Post publication.

(a) Except in an application under section 1(b) of the Act for which no amendment to allege use under § 2.76 has been submitted and accepted, if no opposition is filed within the time permitted or all oppositions filed are dismissed, and if no interference is declared and no concurrent use proceeding is instituted, the application will be prepared for issuance of the certificate of registration as provided in § 2.151.

(b) In an application under section 1(b) of the Act for which no amendment to allege use under § 2.76 has been submitted and accepted, if no opposition is filed within the time permitted or all oppositions filed are dismissed, and if no interference is declared, a notice of allowance will issue. The notice of allowance will state the serial number of the application, the name of the applicant, the correspondence address, the mark, the identification of goods and/or services, and the issue date of the notice of allowance. Thereafter, the applicant must submit a statement of use as provided in § 2.88.

[54 FR 37594, Sept. 11, 1989, as amended at 73 FR 67770, Nov. 17, 2008]

§ 2.82 Marks on Supplemental Register published only upon registration.

In the case of an application for registration on the Supplemental Register the mark will not be published for opposition but if it appears, after examination or reexamination, that the applicant is entitled to have the mark registered, a certificate of registration will issue as provided in § 2.151. The mark will be published in the *Official Gazette* when registered.

[54 FR 37594, Sept. 11, 1989]

§ 2.83 Conflicting marks.

(a) Whenever an application is made for registration of a mark which so resembles another mark or marks pending registration as to be likely to cause confusion or mistake or to deceive, the

mark with the earliest effective filing date will be published in the *Official Gazette* for opposition if eligible for the Principal Register, or issued a certificate of registration if eligible for the Supplemental Register.

(b) In situations in which conflicting applications have the same effective filing date, the application with the earliest date of execution will be published in the *Official Gazette* for opposition or issued on the Supplemental Register.

(c) Action on the conflicting application which is not published in the *Official Gazette* for opposition or not issued on the Supplemental Register will be suspended by the Examiner of Trademarks until the published or issued application is registered or abandoned.

[37 FR 2880, Feb. 9, 1972, as amended at 54 FR 37594, Sept. 11, 1989]

§ 2.84 Jurisdiction over published applications.

(a) The trademark examining attorney may exercise jurisdiction over an application up to the date the mark is published in the *Official Gazette*. After publication of an application under section 1(a), 44 or 66(a) of the Act, the trademark examining attorney may, with the permission of the Director, exercise jurisdiction over the application. After publication of an application under section 1(b) of the Act, the trademark examining attorney may exercise jurisdiction over the application after the issuance of the notice of allowance under section 13(b)(2) of the Act. After publication, and prior to issuance of a notice of allowance in an application under section 1(b), the trademark examining attorney may, with the permission of the Director, exercise jurisdiction over the application.

(b) After publication, but before the certificate of registration is issued in an application under section 1(a), 44, or 66(a) of the Act, or before the notice of allowance is issued in an application under section 1(b) of the Act, an application that is not the subject of an *inter partes* proceeding before the Trademark Trial and Appeal Board may be amended if the amendment does not necessitate republication of the mark or issuance of an Office action. Otherwise, an amendment to such