

**§ 2.62 Procedure for submitting response.**

(a) *Deadline.* Each Office action shall set forth the deadline for response.

(1) *Response periods.* Unless the applicant is notified otherwise in an Office action, the response periods for an Office action are as follows:

(i) Three months from the issue date, for an Office action in an application under section 1 and/or section 44 of the Act; and

(ii) Six months from the issue date, for an Office action in an application under section 66(a) of the Act.

(2) *Extensions of time.* Unless the applicant is notified otherwise in an Office action, the time for response designated in paragraph (a)(1)(i) of this section may be extended by three months up to a maximum of six months from the Office action issue date, upon timely request and payment of the fee set forth in § 2.6(a)(28). To be considered timely, a request for extension of time must be received by the Office on or before the deadline for response set forth in the Office action.

(b) *Signature.* The response must be signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(c) *Form.* Responses and requests for extensions of time to respond must be submitted through TEAS pursuant to § 2.23(a). Responses and requests for extensions of time to respond sent via email or facsimile will not be accorded a date of receipt.

[84 FR 37095, July 31, 2019, as amended at 86 FR 64326, Nov. 17, 2021]

**§ 2.63 Action after response.**

(a) *Repeated non-final refusal or requirement.* After response by the applicant, the examining attorney will review all statutory refusals and/or requirement(s) in light of the response.

(1) If, after review of the applicant's response, the examining attorney issues a non-final action that maintains any previously issued substantive refusal(s) to register or repeats any requirement(s), the applicant may sub-

mit a timely response to the action under § 2.62(a).

(2) If, after review of the applicant's response, the examining attorney issues a non-final action that contains no substantive refusals to register, but maintains any requirement(s), the applicant may respond to such repeated requirement(s) by filing a timely petition to the Director for relief from the repeated requirement(s) if the subject matter of the repeated requirement(s) is appropriate for petition to the Director (*see* § 2.146(b)).

(b) *Final refusal or requirement.* Upon review of a response, the examining attorney may state that any refusal to register or requirement is final.

(1) If the examining attorney issues a final action that maintains any substantive refusal to register, the applicant may respond by timely filing:

(i) A request for reconsideration under paragraph (b)(3) of this section that seeks to overcome any substantive refusal to register, and comply with any outstanding requirement, maintained in the final action;

(ii) An appeal to the Trademark Trial and Appeal Board under §§ 2.141 and 2.142; or

(iii) A request for extension of time to respond or appeal under § 2.62(a)(2).

(2) If the examining attorney issues a final action that contains no substantive refusals to register, but maintains any requirement, the applicant may respond by timely filing:

(i) A request for reconsideration under paragraph (b)(3) of this section that seeks to comply with any outstanding requirement maintained in the final action;

(ii) An appeal of any requirement to the Trademark Trial and Appeal Board under §§ 2.141 and 2.142;

(iii) A petition to the Director under § 2.146 to review any requirement, if the subject matter of the requirement is procedural, and therefore appropriate for petition; or

(iv) A request for extension of time to respond or appeal under § 2.62(a)(2).

(3) Prior to the expiration of the time for filing an appeal or a petition, the applicant may file a request for reconsideration of the final action that

seeks to overcome any substantive refusal(s) and/or comply with any outstanding requirement(s). Filing a request for reconsideration does not stay or extend the time for filing an appeal or petition. The Office will enter amendments accompanying requests for reconsideration after final action if the amendments comply with the rules of practice in trademark cases and the Act.

(4) Filing a request for reconsideration that does not result in the withdrawal of all refusals and requirements, without the filing of a timely appeal or petition, will result in abandonment of the application for incomplete response, pursuant to § 2.65(a).

(c) *Denial of petition.* A requirement that is the subject of a petition decided by the Director may not subsequently be the subject of an appeal to the Trademark Trial and Appeal Board. If a petition to the Director under § 2.146 is denied, the applicant will have the later of the following periods to comply with the requirement:

(1) The time remaining in the period for response to the Office action that repeated the requirement or made it final;

(2) The time remaining after the filing of a timely request for extension of time to respond or appeal under § 2.62(a)(2); or

(3) Thirty days from the date of the decision on the petition.

(d) *Amendment to allege use.* If an applicant in an application under section 1(b) of the Act files an amendment to allege use under § 2.76 during the response period after issuance of a final action, the examining attorney will examine the amendment. The filing of such an amendment does not stay or extend the time for filing an appeal or petition.

[80 FR 2310, Jan. 16, 2015, as amended at 86 FR 64326, Nov. 17, 2021]

**§ 2.64 Reinstatement of applications and registrations abandoned, cancelled, or expired due to Office error.**

(a) *Request for Reinstatement of an Abandoned Application.* The applicant may file a written request to reinstate an application abandoned due to Office

error. There is no fee for a request for reinstatement.

(1) *Deadline.* The applicant must file the request by not later than:

(i) Two months after the issue date of the notice of abandonment; or

(ii) Two months after the date of actual knowledge of the abandonment and not later than six months after the date the trademark electronic records system indicates that the application is abandoned, where the applicant declares under § 2.20 or 28 U.S.C. 1746 that it did not receive the notice of abandonment.

(2) *Requirements.* A request to reinstate an application abandoned due to Office error must include:

(i) Proof that a response to an Office action, a statement of use, or a request for extension of time to file a statement of use was timely filed and a copy of the relevant document;

(ii) Proof of actual receipt by the Office of a response to an Office action, a statement of use, or a request for extension of time to file a statement of use and a copy of the relevant document;

(iii) Proof that the Office processed a fee in connection with the filing at issue and a copy of the relevant document;

(iv) Proof that the Office sent the Office action or notice of allowance to an address that is not the designated correspondence address; or

(v) Other evidence, or factual information supported by a declaration under § 2.20 or 28 U.S.C. 1746, demonstrating Office error in abandoning the application.

(b) *Request for Reinstatement of Cancelled or Expired Registration.* The registrant may file a written request to reinstate a registration cancelled or expired due to Office error. There is no fee for the request for reinstatement.

(1) *Deadline.* The registrant must file the request by not later than:

(i) Two months after the issue date of the notice of cancellation/expiration; or

(ii) Where the registrant has timely filed an affidavit of use or excusable non-use under section 8 or 71 of the Act, or a renewal application under section 9 of the Act, two months after the date of actual knowledge of the