

Please take a few minutes to write your personal reaction as to how you may react to the new 2022 USPTO IP policy. How other small business owners would react? Tell us today, and we'll pass it on to the USPTO. Thank you!

CC: David Gooder - USPTO Commissioner

Dear Client, the USPTO announced very recently they will enact a new personal verification program to eliminate new trademark application and renewal fraud, effective voluntarily January 9, with full requirement on April 9, 2022.

The trademark owner will need to either verify themselves at ID.me or via notarized statement. At ID.me, four forms of ID will be required: 1) picture ID, 2) Social Security #, 3) soft credit check of SS#, by ID.me and 4) a selfie photo. IF a notarized statement is provided, then the Social Security # and credit check will not be needed, but your application will be delayed as the notarized statement must be mailed to the USPTO, which will take 2-3 weeks to process.



How do you think the new USPTO Identification Protocol changes will affect small business start-ups - like yours? Will they want to get a trademark? How does it affect your want to get a trademark? Will it cause you to hesitate to get a trademark? Will it affect your desire even to go into business?

Yes, this is well intentioned policy, as fraud is an IP problem at the USPTO.

As you well know, we have long - for 29 years - railed on and on for people to make sure their proposed name, slogan or logo is in fact LEGALLY CLEAR before they start their small business product or service idea. Yet, the reality and frankly the beauty of small business is to start on a monetary shoestring, attempting all kinds of short cuts and accepting all kinds of risk to actually start their business to see if their is a business to be realized.

My concern is that this new USPTO policy MAY have a chilling effect on small business. More hurdles make it harder to get a trademark. Many small business owners will see this as an extreme personal intrusion. Every day we see this personal reaction when it comes to Covid health concerns, which can result in a person's life or death. If people in effect risk their lives, because they do not want government intrusion, then they will likely shun trademarking, or even starting a business.

The new USPTO ID policy can be avoided if a trademark attorney is hired, however this option itself is not small businesses minded. Small business start-ups normally do not

have or cannot afford trademark \$2000-\$3000 attorneys, who charge 3x-4x our fee for LIKE work. Without the ownership a trademark achieves, as well as broadening rights nationally vs locally under common law, less wealth will be realized by small businesses because they do not have a trademark. They will lose the added value the USPTO offers.

Any delay in getting a trademark opens a can of worms. It means well intentioned business will not come across your USPTO filing, with good intentions, to avoid your prior use, (at least at the direct conflict, not the similarity in sound, appearance or meaning level). It means delayed discovery that some other business has prior rights either by already owning a State or Federal trademark, or first use rights under common law. It also opens the opportunity for another business to trademark or merely start business later, in the future, on top of your prior rights, thereby necessitating added attorney fees to cancel their mark and start cease and desist actions threatening a law suit, including a beginning attorney retainer fee of \$5-\$10k. Again, not good for small businesses.

So, will people's interest in getting a trademark be dampened? Will people's interest in even starting a new business be dampened? If there are fewer small business start-ups, is it good for the USA economy? Small business capitalism itself?

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What is trademark infringement?

Trademark infringement is the unauthorized use of a trademark's same or related goods or services in SOUND, APPEARANCE or MEANING, while also considering customer type and distribution channels, as well, in a manner that is likely to cause confusion in the marketplace. Acquiescence happens when a mark is not enforced over time, thereby losing rights to your trademark. This is why our work includes free access to our seasoned network of 10 trademark attorneys, to expertly sort through conflict and similarity issues. An experienced attorney is needed for every trademark, as we provide.

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