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THE PRIVATE BRIEF · AI & IP

Flat-Fee Trademark Filing: What Is Included, and What Is Not

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IN BRIEF

- The firm's clearance and filing package covers comprehensive clearance with a written opinion, ownership and filing-basis review, the description of goods and services, preparation and filing, and status reporting through the first material USPTO action. The firm's fees are published on its trademark page.
- USPTO fees are separate and paid directly to the USPTO: its fee schedule currently sets a $350 base per class, plus surcharges for missing information, for each class that uses free-form text, and for each extra 1,000 characters of that text.
- Office action responses, statements of use and extensions, disputes before the Trademark Trial and Appeal Board, international filings and post-registration maintenance are all separate engagements.

The launch is six weeks out, the packaging proofs are on your desk, and the engagement letter for the trademark filing says “flat fee.” That is a good sign, and only half an answer. A flat fee is only as useful as the lines drawn around it. The question worth asking before you sign is not “how much?” but “flat for what?”

Here is where this firm draws those lines, and which government charges sit outside them. The firm’s own fees are published on its trademark page. This piece is about what those fees buy, so you can read that page with the right questions in mind.

What the filing package covers

The firm’s clearance and filing package is built for one mark, filed in one class or two, with each further class priced separately. (A class is one of the 45 numbered categories the U.S. Patent and Trademark Office, the USPTO, uses to sort goods and services.) The package includes:

- **Comprehensive clearance.** A commercial search report covering federal, state, common-law, business-name, domain and online sources; attorney review of that report; a written risk opinion on the mark; and a call to walk through what it found.
- **Ownership review.** Who actually owns the mark, verified rather than assumed.
- **Filing basis.** Whether you file on use (you already sell under the mark) or on intent to use (you have a genuine plan to start).
- **The description of your goods and services,** drafted from the USPTO’s pre-approved wording where it fits, with a strategy for which classes carry your real commercial use.
- **Preparation and filing** of the application.
- **Docketing and status reporting** through the first material action the USPTO takes: an office action (a letter raising a problem), an approval, or another first step of substance.

If you buy the clearance on its own first and then decide to file, the clearance fee is credited in full against a filing package bought within 30 calendar days, for the same mark. You do not pay for the clearance twice.

The description of goods and services is where a flat fee earns its keep. Since the USPTO’s 2025 fee rule, it is also where the government’s surcharges live.

The USPTO's fees are separate, and they are the part people misjudge

USPTO fees are paid by you directly to the USPTO and are not part of any flat fee here. The USPTO's fee schedule currently sets a base application fee of $350 per class. Three surcharges can sit on top of it:

- **$100 per class** if the application leaves out information the rules require, such as the owner's domicile address or type of legal entity. The USPTO assesses it for every active class in the application.
- **$200 per class** for each class in which you use the free-form text box to describe your goods or services, instead of choosing entries from the USPTO's ID Manual (its searchable list of pre-approved descriptions). The trap: copying ID Manual wording and pasting it into the free-form box triggers the fee too.
- **$200 more** for each additional block of 1,000 characters of free-form text beyond the first 1,000, counted separately in each class that uses the free-form box.

Businesses whose real services are not in the ID Manual, and there are many, reach for the free-form box because they have to, not because they were careless. That is why the firm tells you which surcharges it expects before the application is filed, not after.

An illustration, with the arithmetic

This is a composite, not a client. A clothing company files one mark in two classes: Class 25 for the clothing, and Class 35 for its online store. The clothing entries are selected straight from the ID Manual. The store sells a curated subscription the pre-approved wording does not describe, so that class is written in the free-form box, in under 1,000 characters.

The USPTO fees, from its current fee schedule:

1. Base fee: 2 classes × $350 = $700.
2. Free-form surcharge, charged only in Class 35, the one class that uses free-form text: 1 class × $200 = $200.
3. Total to the USPTO: $700 + $200 = $900.

Two small changes show how quickly that moves. If the Class 35 description ran to 1,500 characters, one extra block of 1,000 would add $200 in that class, for $1,100. If the clothing entries had been pasted into the free-form box instead of selected from the ID Manual, Class 25 would carry its own $200 surcharge as well.

The firm's fee for a two-class package is on its trademark page, and it is separate from every figure above.

What happens after filing

Filing starts a sequence. The USPTO examines the application and either approves it or issues an office action. An approved mark is published for opposition, which gives anyone who believes they would be harmed by the registration thirty days to object (a window that can be extended on request). After that, a use-based application moves toward registration. An intent-to-use application gets a notice of allowance instead, and a notice of allowance is not a registration.

That is where budgets go wrong. After a notice of allowance, the mark registers only once you file a statement of use: a sworn statement, with a specimen (a real example, such as a label or product page), showing that you now use the mark in commerce. The statute gives you six months from the notice of allowance. If you are not selling yet, you can buy more time in six-month extensions, but not forever: the first extension is yours on request, and any further ones require good cause and cannot add up to more than 24 months. Miss a deadline and the application is abandoned. The USPTO's fee schedule currently charges $150 per class for a statement of use and $125 per class for each extension request.

The firm tells you which path you are on before the application goes in, because it changes what the whole exercise costs and when.

Pricing the response separately keeps the package honest.

What is not included

Plainly, so nobody discovers it later:

1. **Responses to office actions.** Office actions are a routine, common part of examination. Responding is always a separate engagement, priced by the kind of refusal, and the fee is confirmed in writing before any work starts. The USPTO charges nothing to respond; an optional extension of time to respond currently costs $125 on its fee schedule.
2. **Statements of use and extensions** on intent-to-use filings. Each carries a firm fee and a USPTO fee, and the firm's fees for both are on its trademark page.
3. **Oppositions and cancellations** before the Trademark Trial and Appeal Board (the USPTO's tribunal for disputes between owners), enforcement and demand letters, and trademark litigation of any kind.
4. **International filings**, beyond a first conversation about whether the Madrid Protocol (the treaty system for extending a U.S. filing to other countries) suits you.
5. **Post-registration maintenance.** The filings that keep a registration alive are priced separately, per class, because they arrive years apart. For registrations the firm filed, it monitors those deadlines on your calendar at no charge.

Why the line is drawn there

A flat fee that a client could reasonably read as covering an office action response would have to be priced for the worst case, and then every client pays for problems only some applications have. Pricing the response separately keeps the package honest. It also means the response is priced to the refusal you actually received, not the one you might have.

Every engagement starts with a conflict check and a written engagement agreement, and no work begins until both are complete. And the standing caveat: registration is never guaranteed. The USPTO decides the outcome and sets its own examination pace, and no attorney controls either.

A flat fee is only as useful as the lines drawn around it.

Where to start

Before you file anything, open the USPTO's ID Manual and search for the words you would use to describe what you sell. If entries fit, write them down exactly. If nothing fits, you now know at least one class will likely need free-form text, and its surcharge, and you can raise it on the first call instead of discovering it on the filing receipt.

This is general information about how trademark filing fees are structured, not legal advice about your filing. USPTO fees change, so check the current fee schedule before relying on any figure here.

WRITTEN BY

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Anthony is the Managing Partner of Clemenza Law Group and serves as general counsel to a wide range of companies and philanthropic organizations. Nearly every essay here began as a real question from a real client: the contract that landed at 4 p.m., the board that meets on Thursday. He writes them the way he would answer you across the table, plainly and with care.