

## U.S. Patent and Trademark Office, Commerce

## §2.160

Register. The certificate will state the date on which the application for registration was filed in the Office, the act under which the mark is registered, the date of issue, and the number of the registration. A reproduction of the mark and pertinent data from the application will be sent with the certificate. A notice of the requirements of section 8 of the Act will accompany the certificate.

[64 FR 48924, Sept. 8, 1999]

### PUBLICATION OF MARKS REGISTERED UNDER 1905 ACT

AUTHORITY: Secs. 2.153 to 2.156 also issued under sec. 12, 60 Stat. 432; 15 U.S.C. 1062.

#### §2.153 Publication requirements.

A registrant of a mark registered under the provisions of the Acts of 1881 or 1905 may at any time prior to the expiration of the period for which the registration was issued or renewed, upon the payment of the prescribed fee, file an affidavit or declaration in accordance with §2.20 setting forth those goods stated in the registration on which said mark is in use in commerce, specifying the nature of such commerce, and stating that the registrant claims the benefits of the Trademark Act of 1946.

[31 FR 5262, Apr. 1, 1966]

#### §2.154 Publication in Official Gazette.

A notice of the claim of benefits under the Act of 1946 and a reproduction of the mark will then be published in the *Official Gazette* as soon as practicable. The published mark will retain its original registration number.

#### §2.155 Notice of publication.

The Office will send the registrant a notice of publication of the mark and of the requirement for filing the affidavit or declaration required by section 8 of the Act.

[64 FR 48924, Sept. 8, 1999]

#### §2.156 Not subject to opposition; subject to cancellation.

The published mark is not subject to opposition, but is subject to petitions to cancel as specified in §2.111 and to cancellation for failure to file the affi-

dativ or declaration required by section 8 of the Act.

[64 FR 48924, Sept. 8, 1999]

### REREGISTRATION OF MARKS REGISTERED UNDER PRIOR ACTS

#### §2.158 Reregistration of marks registered under Acts of 1881, 1905, and 1920.

Trademarks registered under the Act of 1881, the Act of 1905 or the Act of 1920 may be reregistered under the Act of 1946, either on the Principal Register, if eligible, or on the Supplemental Register, but a new complete application for registration must be filed complying with the rules relating thereto, and such application will be subject to examination and other proceedings in the same manner as other applications filed under the Act of 1946. See §2.26 for use of old drawing.

### CANCELLATION FOR FAILURE TO FILE AFFIDAVIT OR DECLARATION DURING SIXTH YEAR

AUTHORITY: Secs. 2.161 to 2.165 also issued under sec. 8, 60 Stat. 431; 15 U.S.C. 1058.

#### §2.160 Affidavit or declaration of continued use or excusable nonuse required to avoid cancellation of registration.

(a) During the following time periods, the owner of the registration must file an affidavit or declaration of continued use or excusable nonuse, or the registration will be cancelled:

(1)(i) For registrations issued under the Trademark Act of 1946, on or after the fifth anniversary and no later than the sixth anniversary after the date of registration; or

(ii) For registrations issued under prior Acts, on or after the fifth anniversary and no later than the sixth anniversary after the date of publication under section 12(c) of the Act; and

(2) For all registrations, within the year before the end of every ten-year period after the date of registration.

(3) The affidavit or declaration may be filed within a grace period of six months after the end of the deadline set forth in paragraphs (a)(1) and (a)(2) of this section, with payment of the grace period surcharge required by section 8(c)(1) of the Act and §2.6.