

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Trademark Pilots

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Pilot case study: Integrity of the Trademark Register

- The Trademark Register functions to give notice to businesses as to what trademark rights already are claimed
- New legal development in 2009 called into question the accuracy of the Register as a reflection of marks actually in use
- Mixed views on whether and to what extent changes should be made to address the issue

Post Registration Pilot to assess accuracy of the Register

- Before making changes, implemented a pilot program to assess degree of inaccuracy of the Register
 - Randomly selected 500 representative trademark registrations to audit
 - Required owners to verify ongoing use of the trademark for selected goods/services in the registration

Post Registration Pilot rulemaking considerations

- NPRM for permanent increased USPTO authority to require additional evidence of ongoing trademark use
- Concerns expressed about burden on users from increased authority
- NFRM added a “sunset” to make the increased authority temporary only for the pilot, allowing for review of pilot results prior to any permanent change

Post Registration Pilot implementation

- Determining number of cases to audit, randomization and representative sampling
- Procedures for audits and followup
- How to measure results
- How to collect and record audit data
- Staffing for new workload
- Staff training and consistency
- Communications plan for the pilot

Results of Post Registration Pilot

- USPTO interim and final reports on pilot
- For more than half of the audited trademark registrations, the owner was unable to verify the actual use of the mark for the goods/services queried
- USPTO roundtable to discuss pilot results and next steps
- Pilot results brought about consensus for USPTO to make changes to improve accuracy of the Register



Post pilot rulemaking & permanent program

- Another NPRM for permanent increased USPTO authority to require additional evidence of ongoing trademark use
- Random audit program made permanent
- Public support due to pilot results
- Other measures also implemented to improve accuracy of the Register; more on the way

Other USPTO trademark pilots

- Specimen protests pilot program
- Technology evolution registration amendments pilot program
- Expedited cancellation TTAB pilot program

