

TSIRCOU | NEWSLETTER

February 2014



February 2014 Newsletter



Last week a new coffee shop opened up to Los Angeles, intriguing and baffling residents. It was called "Dumb Starbucks Coffee," and was almost indistinguishable inside and outside from a Starbucks, with the addition of the word dumb. For a few days, the proprietors had people convinced this was an attempt to use parody law to get away with copying Starbucks' trademark and trade dress.

However, Dumb Starbucks turned out to be a prank for Nathan Fielder's Comedy Central show, "Nathan For You." Starbucks commented that they "are evaluating next steps and while we appreciate the humor, they cannot use our name." We consider the legality of Dumb Starbucks in Fielder's comedic test of the boundaries of fair use law.

We also discuss recent decreases in patent fees. In the wake of the America Invents Act (AIA), the PTO adjusted its fees. In particular, it dropped the fees for issuing and reissuing a patent, as well as allowing small entity and micro entity reductions for international PCT applications. We detail the fee reductions and the new scheme for fee calculation under the AIA.

Additionally, we discuss use requirements in international trademark registration. While the Madrid Protocol enables a trademark registrant to easily apply for registration in multiple countries, it is important to recognize where additional steps are required. In particular, a handful of countries, including the United

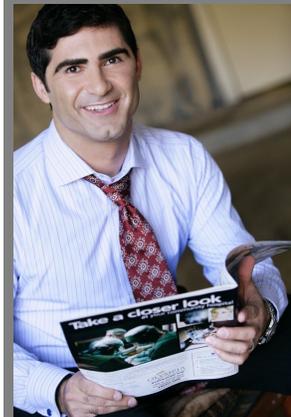
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All newsletters and articles are available upon request.

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States, require a showing of prior and continuing use. We explain how to comply with international use requirements under the Madrid Protocol.

Dumb Starbucks

Last week, people lined up around the block to visit "Dumb Starbucks" in the Los Feliz neighborhood of Los Angeles. Dumb Starbucks touted itself as a "fully functioning coffee shop" slash "work of parody art," which was initiated by comedian Nathan Fielder for his Comedy Central show "Nathan for You." Dumb Starbucks assured its customers that what it was doing was perfectly legal under the "fair use" defense as a parody. In several press statements, Starbucks stated, "while we appreciate the humor, they cannot use our name, which is a protected trademark" (USA Today).

Dumb Starbucks displayed a FAQ assuring visitors that what it was doing was legal: "By adding the word 'dumb', we are technically 'making fun' of Starbucks, which allows us to use their trademarks under a law known as 'fair use.'" Given that the show generally portrays Fielder giving boneheaded business advice, the legal analysis therein should be taken with a grain of salt.

For more information, please click below:

- [Dumb Starbucks](#)

PTO Reduces Selected Patent Fees

On January 1, 2014 several USPTO fees decreased, including issue fees and reissue fees. For PCT international applications, certain fees were given small entity and micro entity rates, which reduce fees for qualifying individuals, small businesses, and non-profits. The PTO also eliminated publication fees. Many of the fee reductions are substantial.

The new fees stem from the America Invents Act, ("AIA") which went into effect in March 2013. The AIA, in part, requires the USPTO to set or adjust fees "only to recover the aggregate estimated costs to the Office." Under AIA, the patent office periodically recalculates these costs depending on how many patents are being filed and current processing and administrative costs.

For more information, please click below:

- [Reduced Patent Fees](#)

Use Requirements in International Trademark Registration

Trademark law varies greatly between countries, which can complicate maintaining international registration. U.S. trademark law tends to place a greater focus on the use of the mark than most countries. In particular, international trademark registration under the Madrid Protocol does not generally require a showing of previous or continuing use. Applicants seeking protection in

the U.S. and internationally should be aware when heightened requirements are necessary.

The Madrid Protocol streamlines international trademark filing for member "States." Members can file a domestic registration then file an international registration, electing states in which to obtain protection and paying fees directly to the "international bureau" of the World Intellectual Property Organization (WIPO). This confers protection in multiple countries with a single application. However, filing an international application does not necessarily mean the requirements of each member state have been met. Further, international registration depends on the domestic registration for five years-if the original mark is cancelled or changed, the international registration may be invalidated.

For more information, please click below:

- [Use Requirements in International Trademark Registration](#)

Please feel free to contact us, if you would like additional information. We look forward to assisting you with your intellectual-property matters.

Sincerely,

A handwritten signature in blue ink that reads "Kyriacos Tsircou". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kyriacos Tsircou
Tsircou Law, P.C.

This e-mail and any attachments are not intended to be and should not be relied upon as legal advice.