

## U.S. Trademarks: When to File a Section 8 Declaration

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In order for a trademark registration to remain valid, the owner of the trademark must file a Declaration of Continued Use or Excusable Nonuse (“Declaration of Continued Use”) with the United States Patent and Trademark Office (USPTO) between the fifth and sixth anniversaries following the trademark registration.

If the mark was assigned to a new owner since the original registration, the Section 8 Declaration should be filed by the current owner.

The official fee for filing a Section 8 declaration is \$125 per class of goods or services in the registration.

By filing a Section 8 Declaration, the owner is simply making a statement to the USPTO affirming that the federally registered trademark has been in use continuously for a period five years.

Although failure to file it on time can result in the loss of the registration, the USPTO will still accept Section 8 declarations for up to six months after the due date during a period called the grace period. During this period, Affidavits or declarations must include an additional \$100 fee per class of goods or services.

Between the 9th and 10th year after registration, the owner must file a combined declaration of use and/or excusable nonuse and application for renewal under Sections 8 and 9 (combined filing). The USPTO forms combine the Section 8 declaration with the Section 9 renewal application.

A combined filing filed during the grace period must include an additional \$200 fee per class of goods or services. The fee includes a \$100 grace period fee per By filing the Section 9 renewal application, the owner makes a request to keep the registration active. The official fee for filing a combined section 8 declaration and Section 9 application for renewal is \$425 per class of goods or services in the registration.

class of goods or services for the Section 8 as well as a \$100 grace period fee per class of goods or services for the Section 9 renewal.

A combined Section 8 declaration and Section 9 application for renewal must be filed every ten years calculated from the date of registration.

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## About Ufuoma Akpotaire ›



Ufuoma is a Senior Editor and Director of Regulatory Policy at NLIPW. She assists clients in the protection of copyrights, trademarks and patents. She counsels clients regarding validity and infringement matters and has experience acting against the infringement of IP and addressing counterfeit issues. She holds a Masters degree (LL.M.) from Columbia Law School, New York and a law degree from the University of Nigeria (LL.B. Honors). She is admitted to practice law in Nigeria and in the State of New York. Ufuoma cut her teeth in the intellectual property practice groups of some of the largest law firms in Nigeria and has years of experience working with major non-profit organizations in New York. Email: [uakpotaire@nlipw.com](mailto:uakpotaire@nlipw.com)

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