

#### How to submit and update a Proof of Use

Trademark Clearinghouse May 2019



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#### 1. Introduction

If you wish to opt in for the Sunrise Services or the TREx service, an evidence of the use of your trademark is required. The Verification of Proof of Use (POU) by the Trademark Clearinghouse is required to qualify for participation in the Sunrise Domain Name Registration processes or if you want to benefit from the TREx service.

A submission for verification of Proof of Use must contain two specific elements:

- A signed Proof of Use declaration
- A single sample of Proof of Use

The signed Proof of Use Declaration is a template declaration that must be uploaded, along with a single sample of Proof of Use (see below), in the TMCH web user interface by the Trademark Holder or by a Trademark Agent on behalf of the Trademark Holder(s). Different declarations exist for Trademark Holders and Trademark Agents. You can easily download them on our website via the following links:

- Declaration of Proof of Use Trademark Holder
- Declaration of Proof of Use Trademark Agent

The single sample of Proof of Use is the concrete evidence that the Trademark Holder is actively using the related trademark. The sample should be explicit enough to evidence an effort, on behalf of the Trademark Holder, to communicate to a client about the products, services that they are offering and to distinguish them from another offering.

Accordingly, examples of acceptable evidence would include items from either of the following categories:

- Labels, tags, or containers from a product
- Advertising and marketing materials (including brochures, pamphlets, catalogues, product manuals, displays or signage, press releases, screen shots, or social media marketing materials)

An uploaded and verified Proof of Use file is valid for a period of 5 years.

This manual details the necessary steps to add and update your Proof of Use in the following scenarios:

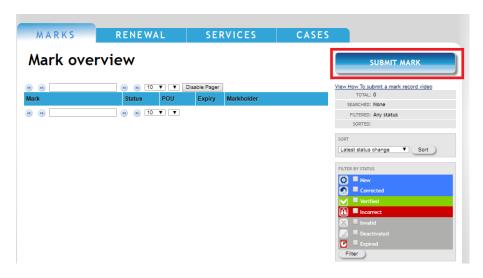
- 1. How to add Proof of Use when you are submitting a new trademark record to the TMCH.
- 2. How to add Proof of Use after you have submitted a new trademark record to the TMCH.
- 3. How to update, manage or correct an already submitted Proof of Use:
  - a. From a verified trademark record, with an 'incorrect' POU.
  - b. From a verified trademark record, with a 'valid' POU.



#### 2. <u>How to add a Proof of Use when submitting a new trademark</u> record

When a Trademark record is submitted via the Trademark Clearinghouse, the Agent/Holder has the possibility to opt-in for Sunrise services (for more information on the Sunrise service please visit the Clearinghouse FAQ section: <a href="http://www.trademark-clearinghouse.com/help/faq">http://www.trademark-clearinghouse.com/help/faq</a>). When opting-in for the Sunrise service, the Agent/Holder is obligated to add a Proof of use (POU) including a 'Single sample'. If the Agent/Holder does not opt-in for the Sunrise Service at the moment of submission in the TMCH, no Proof of Use is needed. The Agent/Holder can opt-in for the sunrise service at a later point.

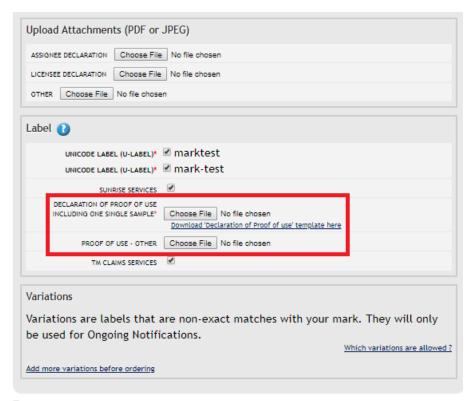
To submit a new trademark record, first connect to the TCMH platform and arriving on the 'Mark overview' page, click 'Submit Mark' button.



The Agent/Holder will be redirected to a form with multiple fields to complete in order to finalize the relative order.

The Proof of Use can be added in the 'Label' section as indicated below.





Trademark Holder/Trademark agent] hereby certifies that the information submitted to the Clearinghouse is, to the best of Irademark Holder/Trademark agent] knowledge, complete and accurate, that the trademarks set forth in this submission are currently in use in the manner set forth in the accompanying specimen, in connection with the class of goods or services specified when this submission was made to the Clearinghouse; that this information is not being presented for any improper purpose; and that if, at any time, the information contained in this submission is no longer accurate, the [Trademark Holder/Trademark agent] will notify the Clearinghouse within a reasonable time of that information which is no longer accurate, and to the extent necessary, provide that additional information necessary for the submission to be accurate. Furthermore, if any Clearinghouse-verified mark subsequently becomes abandoned by the Trademark Holder, the [Trademark Holder/Trademark agent] will notify the Clearinghouse within a reasonable time that the mark has been abandoned, or has been the subject of successful opposition, invalidation, cancellation, or rectification proceedings.



Please note that when a user has not opted-in for Sunrise Services when submitting its trademark record, no 'Declaration of Proof of Use' or sample is requested. By submitting a Proof of Use at a later stage (after the trademark record is verified), the user can opt-in to the sunrise service as soon as the Proof of Use is validated by the TMCH.

Once the documentation has been uploaded and all other information is provided, the Agent/Holder can click on 'Submit' at the bottom of the page to place his order. The documentation will be verified by the TMCH.

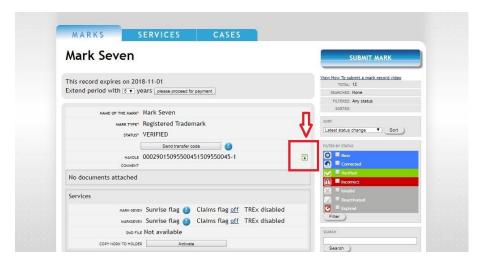


## 3. How to add a Proof of Use to a verified trademark record with no Proof of Use

Select the trademark record for where a 'Declaration of Proof of use including one single sample' needs to be added. Note here that the status of the Proof of Use is 'Not set' since no Proof of Use was ever uploaded.



Click on the trademark record and you will be redirected to the 'Mark details' page. Once the page is opened, navigate to the Proof of Use details by clicking on the expand/collapse button highlighted below in the red box.





The Agent/Holder will see that the status of the Proof of Use is 'NOT SET'. Click on 'Add proof of use' to add a Proof of Use.



You will be redirected to the 'Edit' page of the Proof of Use of the trademark record. You can upload the 'Declaration of Proof of use including one single sample' and 'Proof of use – other' document by clicking on the 'Choose File' buttons.





After the selected documents have been uploaded, click on the 'Update' button to finalize the upload of the Proof of Use. In case the documentation is insufficient, the user can upload a new document<sup>1</sup>.



A pop-up message will appear asking your confirmation to submit the POU documents.

Press 'OK' (only if the correct documentation is uploaded) to upload the POU documents. Note that after clicking 'OK' you can no longer upload POU documents<sup>2</sup>.



The Proof of Use status of the trademark record will be changed into 'CORRECTED'.

<sup>&</sup>lt;sup>1</sup> If you choose to click on 'Return to mark', you will go back to the 'Mark Overview' page. No POU will be uploaded.

<sup>&</sup>lt;sup>2</sup> If you click on 'Cancel', you will cancel the submission of the extra POU documents. No changes will be made.





The uploaded Proof of Use will be sent to the Trademark Clearinghouse for Proof of Use verification.

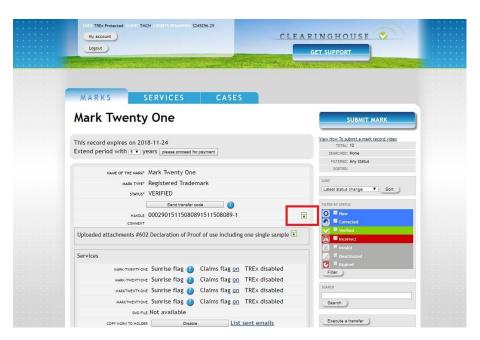


# 4. How to update the current Proof of Use from a verified trademark record with an incorrect Proof of Use

Select the trademark record in the 'Mark overview' with Proof of Use (POU) status 'Incorrect'.

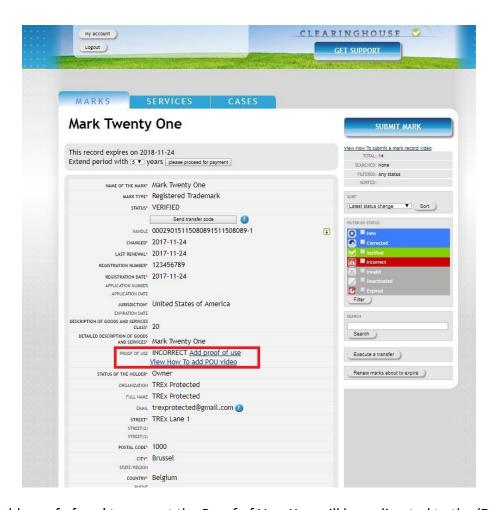


After selecting the trademark record you will be directed to the Mark details page. You can then, navigate to the Proof of Use section by clicking on the expand/collapse button highlighted below in the red box.



The Agent/Holder will see that the status of the Proof of Use is set to 'INCORRECT'.





Click on 'Add proof of use' to correct the Proof of Use. You will be redirected to the 'Edit' page of the POU of the trademark record.





By clicking on the expand/collapse button highlighted below in the red box, the Agent/Holder will be able to see comments on why the Proof of Use status was set to 'INCORRECT'.



Make sure to consider these comments when uploading a new Proof of Use documents. Click on the 'Choose File' button to upload the new POU documents.





After the new documentats are selected, click on 'Update'3.



A pop-up message will appear asking confirmation for resubmitting the extra POU documents.



Press 'OK' (only if the correct documentation is uploaded) to upload the POU documents. Note that after clicking 'OK' you can no longer upload POU documents<sup>4</sup>.

<sup>&</sup>lt;sup>3</sup> You can choose to click on 'Return to mark', where you will go back to the 'Mark Overview' page. No POU will be uploaded.

<sup>&</sup>lt;sup>4</sup> If you click on 'Cancel', you will cancel the submission of the extra POU documents. No changes will be made.



The Proof of Use status of the trademark record will be changed into 'CORRECTED'.



The uploaded Proof of Use will be sent to the Trademark Clearinghouse for Proof of Use verification.

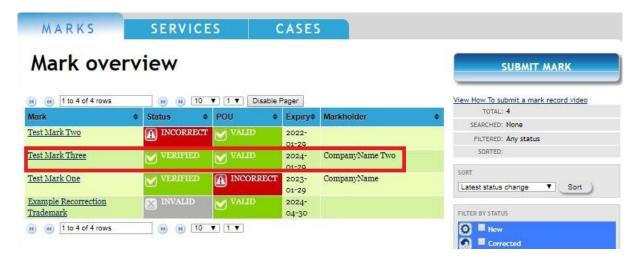


### 5. <u>How to update the current Proof of Use from a verified</u> trademark record with a valid Proof of Use

In case the current POU documents submitted no longer reflect the validity of the trademark, Trademark Holders/Agents can update their current POU documentation by following the next steps.

Note that only POU documents should be uploaded via the below explained functionality.

Select the trademark record in the 'Mark overview' with Proof of Use (POU) status 'valid'.

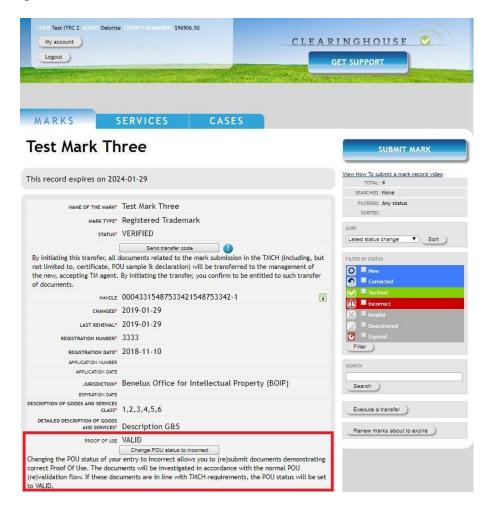


After selecting the trademark record you will be directed to the Mark details page. You can then, navigate to the Proof of Use section by clicking on the expand/collapse button highlighted below in the red box.



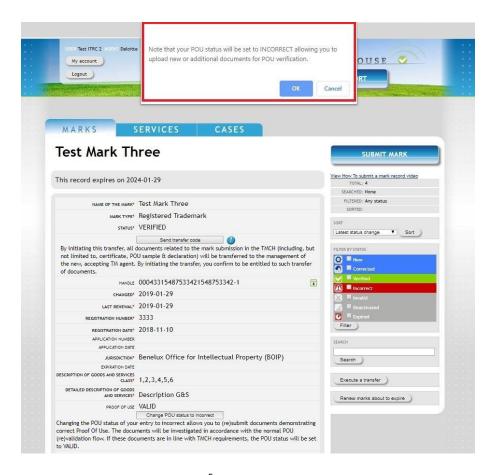


Once extended, you can change the status of the Proof of Use from 'Valid' to 'Incorrect' by clicking on the button 'Change POU status to incorrect', available under the status of the POU. Changing the POU status of your entry to 'Incorrect' allows you to (re)submit documents demonstrating correct Proof of Use.



Click on 'Change POU status to incorrect'.



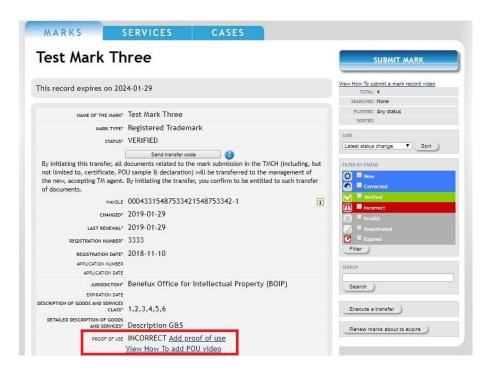


Press 'OK' to confirm the change of status<sup>5</sup>. The status of your POU has changed to 'Incorrect'.

Navigate to the Proof of Use section by clicking on the expand/collapse button highlighted below in the red box. Click on 'Add proof of use' to correct the Proof of Use.

<sup>&</sup>lt;sup>5</sup> If you click on 'Cancel', you will cancel the operation. No changes will be made.

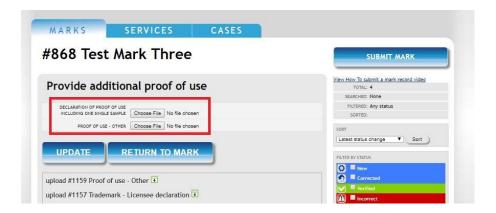




You will be redirected to the 'Edit' page of the POU of the trademark record.



Make sure to upload the correct documents. Click on the 'Choose File' button to upload the new POU documents.

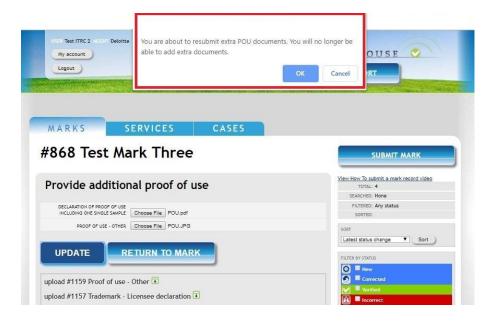




After the new documents are selected, click on 'Update'6.



A pop-up message will appear asking confirmation for resubmitting the extra POU documents.



Press 'OK' (only if the correct documentation is uploaded) to upload the POU documents. Note that after clicking 'OK' you can no longer upload POU documents<sup>7</sup>.

<sup>&</sup>lt;sup>6</sup> You can choose to click on 'Return to mark', where you will go back to the 'Mark Overview' page. No POU will be uploaded.

<sup>&</sup>lt;sup>7</sup> If you click on 'Cancel', you will cancel the submission of the extra POU documents. No changes will be made.



The Proof of Use status of the trademark record will be changed into 'CORRECTED'.



The uploaded Proof of Use will be sent to the Trademark Clearinghouse for Proof of Use verification.