Trademark Trial and Appeal Board (TTAB) update
TPAC – April 28, 2023

TTAB Chief Judge Gerard Rogers
Pending cases by type – Q2 FY21 through Q2 FY23
Filings by quarter – Q2 FY21 through Q2 FY23
Increase/decrease by % — annual new filings
Pendency goals

- Average time to disposition of contested motions – 12 weeks or less
- Average time to issuance of final decisions in appeals – 12 weeks or less
- Average time to issuance of final decisions in trial cases – 15 weeks or less
- As measured from ready for decision date
Motion processing, in weeks
Appeal processing, in weeks

- **FY20**: Goal 12, Actual 11
- **FY21**: Goal 12, Actual 8
- **FY22**: Goal 12, Actual 9
- **FY23**: Goal 12, Actual 14

The graph shows the comparison between the goal and actual processing time for appeals over the fiscal years 2020 to 2023.
Trial processing, in weeks

FY20 FY21 FY22 FY23

Goal Actual
Cases ready for decision on merits
Takeaways

• Increasing number of judges
• Commenced Final Pretrial Conference (FPC) pilot
• Focusing on efficient approaches to decision writing and case management of trials
• Looking into data analysis
Oral arguments
In person hearing option available as of August 8, 2022
Parties can still choose virtual option
Parties must agree on in person option
Most parties are choosing virtual hearings
Even in person hearings may involve a judge appearing virtually
TTAB outreach and hearings

- PTAB and TTAB have resumed joint hearing programs held at law schools
- TTAB continuing to stream virtual hearings in conjunction with Continuing Legal Education (CLE) conferences and USPTO Global IP Academy programs
Final Pretrial Conference (FPC) pilot
Trademark Alert email announced April 1 commencement of FPC pilot

Pilot planning team has provided instruction to all TTAB interlocutory attorneys (IAs) and judges (ATJs)

Attorneys and judges may now recommend cases for possible inclusion in pilot; recommendations reviewed by planning team
Benefits

• Goals are to save time and resources of parties and the TTAB, and foster effective presentation of case

• Parties will be strongly encouraged to dispense with extraneous claims, defenses, objections; to enter into stipulations on exhibits, agreed-upon facts, presentation of evidence; trial plan subject to Board approval
Steps

• Pilot planning team receives recommendation
• Assesses bases for recommendation and likelihood inclusion would be successful
• Assignment order issues (after close of discovery); parties discuss dates for orientation conference with IA and ATJ
• IA and ATJ explain parties’ joint drafting of proposed FPC order and preparing for FPC
Steps, continued

• Parties exchange lists of witnesses, copies of anticipated trial exhibits, discuss trial plan
• Parties file proposed FPC order
• Board reviews and schedules FPC
• ATJ will lead discussion of edits, amendments for FPC order
• Once order is finalized, Board issues it and it governs trial
Input needed

• Provide feedback via TTABFeedback@uspto.gov
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Pilots

• Final Pretrial Conference Pilot
  ◦ Model Format for Final Pretrial Conference Order
• Expedited cancellation program concluded
  ◦ Comments
Input needed

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