



**TRADEMARK TRIAL AND APPEAL BOARD
PRO BONO CLEARINGHOUSE RECOGNITION
PROGRAM**

Information and Application Packet

I. Background and Benefits

The United States Patent and Trademark Office (USPTO) is establishing a pro bono program for practice before the Trademark Trial and Appeal Board (TTAB). The TTAB Pro Bono Clearinghouse Recognition Program (Program) is an extension of the Leahy-Smith America Invents Act (AIA), which encouraged the USPTO to "work with and support intellectual property law associations across the country in the establishment of pro bono programs designed to assist financially under-resourced independent inventors and small businesses."

Organizations participating in the Program will provide a referral clearinghouse for practitioners to provide their services in inter partes (trial) proceedings before the TTAB *pro bono* to the public.¹ The Program is intended to serve clients who are financially under-resourced (including individuals, small-to medium-enterprises, and not-for-profit, and nonprofit or charitable organizations with low operating budgets) that might not otherwise have affordable access to legal assistance. The participating organizations will have the opportunity to establish referral clearinghouses to match eligible clients participating in inter partes proceedings before the TTAB with outside attorneys who volunteer to provide services free of charge.² There is no fee or charge to apply for, or participate in, the Program.

Participating counsel will benefit from clearinghouse pro bono programs that are part of the Program by having the opportunity to engage in substantial and meaningful direct interaction with clients who might not be able to afford legal counsel in matters before the TTAB. Such matters also offer less experienced counsel the opportunity to develop the skill of practicing before the TTAB that may not be available to them by representing paying clients, and more experienced counsel the opportunity to train the next generation of TTAB practitioners without billing constraints.

II. Process for Recognition

The Program launched in January 2022 with the recognition of the pro bono clearinghouse currently operated and administered by the International Trademark Association (INTA).

¹ "Clearinghouses" act as intermediaries; accordingly, clearinghouses recognized by the Program may not provide legal services, e.g. individual law firms. *See infra* Section VII.

² Participating practitioners may require clients to pay required filing fees (including, but not limited to, fees for filing and for amendments to registrations), and costs related to litigation (such as court reporter and transcript costs, copying charges, research database charges, and expert fees).

The TTAB began accepting applications for approval from other interested organizations beginning in February of 2022.

To participate in the Program, each organization must meet and maintain the requirements for USPTO recognition. All applications from organizations will be reviewed for acceptance using identical criteria set forth herein. A current listing of participating clearinghouses in the Program and additional information may be found on the USPTO's website at: www.uspto.gov.

The TTAB will accept applications from organizations for participation in the Program, which will be reviewed for admission into the Program as they are received. To be considered, organizations are asked to review the materials in this packet and submit a completed application.

III. Clearinghouse Requirements

Each recognized clearinghouse must require that:

1. Legal services are provided by an individual who is an active member in good standing of the bar of the highest court of any State, which includes the District of Columbia and any U.S. Commonwealth or territory. See 37 C.F.R. § 11.1; Trademark Manual of Examining Procedure ([TMEP](#)) § 602.01 (July 2021).
2. Legal services are provided to clients who are financially under-resourced (such as individuals, small-to-medium-enterprises, and not-for-profit, nonprofit or charitable organizations with low operating budgets),³ on a non-discriminatory basis.
3. Participating practitioners may neither ask for nor receive any fee or compensation of any kind for legal services from a client referred by a recognized clearinghouse on whose behalf service is rendered, unless circumstances change (such as the nature or scope of services or financial eligibility of the client).⁴
4. Participating practitioners have a process to ensure that no conflicts exist with the representation of clients referred by the clearinghouse.

³ Financial criteria will be set by the individual clearinghouses.

⁴ Excluding required filing fees (including, but not limited to, fees for filing and for amendments to registrations), and costs related to litigation (such as court reporter and transcript costs, copying charges, research database charges, and expert fees).

5. Participating practitioners must carry legal malpractice insurance.
6. Lead practitioners assigned to represent a party before the TTAB agree to remain counsel of record in the proceeding until completion, unless they move to withdraw pursuant to the Trademark Rules of Practice. See 37 C.F.R. § 11.116.
7. Lead practitioners assigned by the clearinghouse to represent a party before the TTAB must certify that they are familiar with the Trademark Rules of Practice and the Trademark Board Manual of Procedure ([TBMP](#)), **and** have:
 - a. Acted as a counsel of record in at least two proceedings before the TTAB at least through service of written discovery; **or**
 - b. Completed an educational or training program on TTAB practice approved by the clearinghouse; **or**
 - c. Practiced in the trademark field for at least three years.

Lead practitioners must be fully responsible for the management of the case. They may associate with additional or less experienced practitioners, or with students enrolled in a law school pro bono clinic certified by the USPTO (subject to the supervision and approval of the clinic supervisor). Regardless of other persons assisting, the lead practitioner must remain fully responsible for all aspects of the representation.

IV. Acceptance of Applications

Organizations offering or commencing pro bono clearinghouse services that desire to be considered for participation in the Program must submit a complete application with the signed agreement attached to this application packet. Applications will be accepted on a rolling basis until further notice. Applications from interested organizations will be reviewed for admission into the Program as they are received. Organizations offering pro bono clearinghouses selected for recognition in the Program will be notified after review of the application.

Completed applications and signed agreements (as well as questions regarding the Program, requirements, or the application) may be directed to:

Email: TTABFeedback@uspto.gov

Subject: TTAB Pro Bono Clearinghouse Certification Program

Or:

Trademark Trial and Appeal Board
United States Patent and Trademark Office
ATTN: TTAB Pro Bono Clearinghouse Certification Program
P.O. Box 1451
Alexandria, VA 22313-1451

V. After Acceptance into the Program

B. Use of Name

After acceptance into the Program, and only for as long as recognition in the Program remains active and in good standing, each participating organization may promote its clearinghouse as “recognized by the Trademark Trial and Appeal Board Pro Bono Clearinghouse Recognition Program.”

A. Renewal

After commencing participation in the Program, each participating organization desiring to continue in the Program shall, biennially from a date assigned to the organization by the TTAB pro bono coordinator, submit a renewal application in accordance with criteria set forth by the USPTO.

C. Possible Future Reporting

TTAB anticipates that it may, in the future, request that organizations participating in the Program provide the TTAB pro bono coordinator with periodic reports regarding pro bono clearinghouse activity. The types of information that may be requested include:

1. The number of prospective clients who inquired about receiving pro bono services in TTAB matters;
2. The number of clients who received a referral to a participating practitioner for pro bono services in TTAB matters;
3. The number of attorneys who volunteered to provide services through the pro bono clearinghouse;
4. Information about backlogs of those waiting to be matched with a practitioner;

5. A list of pending proceedings referred by the clearinghouse that are being handled by participating practitioners;
6. The number of hours expended by participating practitioners on proceedings referred by the clearinghouse and blended average hourly rates (BAHRs) for the same;
7. Demographic information regarding clients; and
8. Any other information specified by the TTAB Pro Bono Coordinator.

VI. USPTO Employees

Current USPTO employees are not eligible to participate in the TTAB pro bono clearinghouse program.

Former USPTO employees should note that all Post Employment statutes and regulations apply, including 18 U.S.C. § 207.

VII. Other Information

Recognition by the Program or referrals by clearinghouses recognized by the Program are not requirements for offering pro bono services involving TTAB proceedings. Organizations, law firms, and legal practitioners that provide pro bono legal or clearinghouse services that include practice before the TTAB may continue to do so independent of the Program or may do so through a recognized clearinghouse in the Program.

TTAB PRO BONO CLEARINGHOUSE RECOGNITION PROGRAM APPLICATION AND AGREEMENT

INSTRUCTIONS: TTAB requests that organizations interested in recognition as a TTAB pro bono clearinghouse complete the following application and agreement. The information and agreement in the application may be provided in any format chosen by the organization. A sample format is provided below.

(1) General Information

Part A. Sponsoring Organization ("Applicant")

Please provide contact information for the organization.

Organization Name: _____

Mailing Address: [Street] _____

[City, State, Zip] _____

Phone No.: _____

Email address: _____

Website address: _____

Name of Primary Contact: _____

Email of Primary Contact: _____

Phone No. of Primary Contact: _____

Part B. Clearinghouse

Please provide the following information for the clearinghouse *(if different from Applicant)*.

Clearinghouse Name: _____

Mailing Address: [Street] _____

[City, State, Zip] _____

Phone No.: _____

Email address: _____

Website address: _____

Name of Primary Contact: _____

Email of Primary Contact: _____

Phone No. of Primary Contact: _____

(2) Agreement

The Applicant making this application for recognition as a pro bono clearinghouse for matters before the TTAB agrees that it will ensure the following:

1. Legal services will be provided by an individual who is an active member in good standing of the bar of the highest court of any State, which includes the District of Columbia and any U.S. Commonwealth or territory. See 37 C.F.R. § 11.1; Trademark Manual of Examining Procedure ([TMEP](#)) § 602.01 (July 2021).
2. Legal services will be provided to clients who are financially under-resourced (such as individuals, small-to-medium-enterprises, and not-for-profit, nonprofit or charitable organizations with low operating budgets)⁵, on a non-discriminatory basis.
3. Participating practitioners may neither ask for nor receive any fee or compensation of any kind for legal services from a client referred by a recognized clearinghouse

⁵ Financial criteria may be set by the individual clearinghouses.

on whose behalf service is rendered, unless circumstances change (such as the nature or scope of services or financial eligibility of the client).⁶

4. Participating practitioners have a process to ensure that no conflicts exist with the representation of clients referred by the clearinghouse.
5. Participating practitioners must carry legal malpractice insurance.
6. Lead practitioners assigned to represent a party before the TTAB agree to remain counsel of record in the proceeding until completion, unless they move to withdraw pursuant to the Trademark Rules of Practice. See 37 C.F.R. § 11.116.
7. **Lead practitioners** assigned by the clearinghouse to represent a party before the TTAB certify that they are familiar with the Trademark Rules of Practice and the Trademark Board Manual of Procedure ([TBMP](#)), **and** have:
 - a. Acted as a counsel of record in at least two proceedings before the TTAB at least through service of written discovery; **or**
 - b. Completed an educational or training program on TTAB practice approved by the clearinghouse; **or**
 - c. Practiced in the trademark field for at least three years.

Submitted by: _____

Print Name: _____

Title: _____

Date: _____

******* End of Application *******

⁶ Excluding required filing fees (including, but not limited to, fees for filing and for amendments to registrations), and costs related to litigation (such as court reporter and transcript costs, copying charges, research database charges, and expert fees).