

Attachment C

INDEX TO CHANGES

June 2016



TBMP Section:	Nature of Change:
	THROUGHOUT MANUAL
	<p>Spacing, punctuation and formatting corrections as needed for consistency. Corrections to order of citations where appropriate in accordance with citation and manual protocols; pin point cites and parenthetical information added to cases brought forward from previous editions where appropriate. Citations to McCarthy’s checked and year updated (2016). (McCarthy is referenced only in Chapters 300 and 600.)</p> <p>Citations to Wright & Miller Federal Practice and Procedure (FPP) checked and year updated (2015). (Referenced in Chapters 300, 400, 500, 700.)</p> <p>Check, and update as necessary, the Trademark Rules of Practice, Federal Rules of Civil Procedure, Federal Rules of Evidence, Federal Circuit Rules, TMEP cross references; TBMP cross references</p> <p>Underline removed from “<u>Trademark Act § XX</u>”</p> <p>Removed older, repetitive explanations of ESTTA (Electronic System for Trademark Trials and Appeals).</p> <p>Change “Eastern time” to “Eastern Time” for consistency throughout.</p> <p>Change “Please note” to “Please Note” for consistency throughout.</p>
	CHAPTER 100
101.01	2d & 3d para: updated web addresses
101.02	Note 2: add <i>B&B Hardware, Inc. v. Hargis Industries, Inc.</i>
101.03	2d para: updated reference information 3d para: minor word change
101.04	Updated web address
101.05	2d para: minor word change
102.01	Note 3: remove <i>Board of Trustees of University of Alabama v. Pitts</i>
106.03	12th para: addition of clarifying wording
111.02	1st para: correct subsection reference in 37 CFR § 2.198
111.03	Note 1: clarifying wording change
112	4th para: new – explanation that provisions of 37 CFR § 2.196 do not change calculation for due date of any responsive brief Note 2: add <i>Notice of Shutdown of Certain Electronic Systems of the United States Patent and Trademark Office From Tuesday, December 22, 2015 through Thursday, December 24, 2015</i>
115.02	37 CFR § 2.193 – correct subsection reference from (c)(2) to (f)
117	37 CFR § 2.18(a)(4) – remove reference to “20 August 9, 2012”
120.02	Note 4: add <i>ProMark Brands, Inc. v. GFA Brands, Inc.</i>

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TBMP Section:	Nature of Change:
	CHAPTER 200
203.02(a)	Note 1: delete duplicative wording
206.01	Note 3: add <i>Warren Distribution, Inc. v. Royal Purple, LLC</i>
206.02	Note 2: add <i>Warren Distribution, Inc. v. Royal Purple, LLC</i>
206.03	Note 2: add <i>Warren Distribution, Inc. v. Royal Purple, LLC</i>
211.01	2d para: add language explaining how a request may be sent by the Board
213	7th para: add language explaining that a separate filing is best practice
215	6th para: modify language for current practice
217	2d para: add “by TMO” to reflect complete title
218	Note 2: add <i>3PMC, LLC v. Huggins</i>
	CHAPTER 300
303.05(b)	Note 2: add <i>Warren Distribution, Inc. v. Royal Purple, LLC</i>
303.05(c)	Note 2: add <i>Warren Distribution, Inc. v. Royal Purple, LLC</i>
309.02(c)(2)	New 2d para: add Please Note information; add new Note 4, renumber remaining notes
309.03(b)	Note 9: delete <i>The Board of Trustees of The University of Alabama v. Pitts</i>
309.03(c)	Add Please Note information to (3); add statutory citation to (12); add new (24) and new Notes 40, 41; renumber remaining notes. Note 15: add <i>Nike, Inc. v. Palm Beach Crossfit, Inc.</i> ; Note 18: add <i>M.Z. Berger & Co. v. Swatch AG</i> and <i>Swiss Grill Ltd. v. Wolf Steel Ltd.</i> ; Note 21: add <i>Wonderbread 5 v. Gilles</i> and <i>UVeritech, Inc. v. Amax Lighting, Inc.</i> ; Note 24: add <i>Couture v. Playdom, Inc.</i> ; Note 27: add <i>Jack Wolfskin Ausrustung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.</i> ; Note 28: add <i>Nike, Inc. v. Palm Beach Crossfit, Inc.</i> ; Note 30: add <i>N.Y Yankees Partnership v. IET Products & Services, Inc.</i> ; Note 35: add <i>Urock Network, LLC v. Sulpasso</i> ; new Note 40: add <i>H. Marvin Ginn Corp. v. International Association of Fire Chiefs, Inc.</i> and <i>Princeton Vanguard, LLC v. Frito-Lay North America, Inc.</i> ; new Note 41: add <i>Turtle Wax, Inc. v. Blue Coral, Inc.</i> ; Note 43: delete <i>The Board of Trustees of The University of Alabama v. Pitts</i> ; Note 50: add <i>The North Face Apparel Corp. v. Sanyang Industries, Inc.</i> and <i>Anheuser-Busch, LLC v. Innvopak Systems Pty. Ltd.</i>
314	Note 1: add <i>UVeritech, Inc. v. Amax Lighting, Inc.</i> ; Notes 4 & 5: add <i>Be Sport, Inc. v. Al-Jazeera Satellite Channel</i>
	CHAPTER 400
401.03	Added language in body of section stating that Fed. R. Civ. P. 26(e) does not allow an expert to bolster previously disclosed opinions or to add new opinions.
401.03	Added Note 26 which cites to <i>ProMark Brands Inc. v. GFA Brands, Inc.</i>
402.01	Amended text of Fed. R. Civ. P. 26(b)(1) to reflect 2015 amendment to the rule
402.01	Corrected typo in citation to Rule 26 in third paragraph of section
402.01	Note 5: Added <i>Emilio Pucci International BV v. Sachdev</i>

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TBMP Section:	Nature of Change:
404.02	Amended text of Fed. R. Civ. P. 30(a) to reflect 2015 amendment to the rule
404.06(c)	Amended text of Fed. R. Civ. P. 30(d)(1) to reflect 2015 amendment to the rule; Added amended Fed. R. Civ. P. 37(e); added language to body of text regarding duty to preserve electronically stored information (“ESI) and remedies for lost ESI; added new Note 10 citing to <i>Zubulake v. UBS Warburg LLC</i> ; added new Note 11 citing to <i>Leon V. IDX Systems Corp.</i> and <i>Silvestri v. General Motors Corp.</i>
404.06(d)	Amended text of Fed. R. Civ. P. 30(a)(2)(A)(ii) to reflect 2015 amendment to the rule; also amended reference to rule in 2nd full paragraph of body of text
404.07(i)	Note 2: Added Cf. <i>Hollywood Casino LLC v. Chateau Celeste, Inc.</i>
406.04	Amended text of Fed. R. Civ. P. 34(b)(2)(A) to reflect 2015 amendment to the rule
406.04(c)	Amended text of Fed. R. Civ. P. 34(b)(2)(B) and 34(b)(2)(C) to reflect 2015 amendment to the rules; added language to 1st paragraph of body of text regarding (1) the requirement that a party objecting to a document request must affirmatively state whether any documents are withheld based on the lodged objection, and (2) the prohibition of a party to redact portions of responsive documents on the ground that the non-disclosed information is not relevant or responsive where the information appears in the document that otherwise contains relevant or responsive information; Note 1: added cite to Fed. R. Civ. P. 34(b)(2)(B); added Note 4 which cites to <i>Intex Recreation Corp. v. The Coleman Co.</i> ; amended Note 1 to reflect 2015 amendments; renumbered notes following Note 4
408.01	Note 1: Added <i>Cadbury UK Ltd. v. Meenaxi Enter., Inc.</i>
408.03	Deleted language from body of text which provides that a party will not be sanctioned for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system to reflect amendment to Fed. R. Civ. P. 37(e) which changes standard for lost electronically-stored information; deleted Note 7 which cited to former Fed. R. Civ. P. 37(e)
412	Added language from Paragraphs 1, 2, and 3 of Board’s revised standard protective order; amended recitation of Fed. R. Civ. P. 26(c)(1)(B) to reflect 2015 amendment to the rule
412.01	Modified language in 2nd and 3rd paragraphs of body of section to reflect that the Board’s revised standard protective order now only has two tiers of confidentiality; Note 10: Added <i>Intex Recreation Corp. v The Coleman Co.</i>
412.01(a)	Added language from Paragraphs 1, 2, and 14 of Board’s revised standard protective order; amended body of section to reflect change to two tier of confidentiality
412.01(b)	Added language from Paragraph 14 of Board’s revised standard protective order; amended body of section to reflect change to two tier of confidentiality

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TBMP Section:	Nature of Change:
412.01(c)	Added language from Paragraphs 12 of Board’s revised standard protective order
412.02	Amended body of section to reflect change to two tier of confidentiality
412.02(b)	Amended body of section to reflect change to two tier of confidentiality
412.02(d)	Amended section 12 of body of to reflect change to two tier of confidentiality
412.03	Added language from Paragraph 16 of Board’s revised standard protective order
412.04	Added language from Paragraph 12 of Board’s revised standard protective order
CHAPTER 500	
502.02(b)	Note 10: Correct citation to <i>Pioneer Kabushiki Kaisha v. Hitachi High Technologies</i>
502.02(b)	Note 12: Correct citation to <i>Sinclair Oil Corp. v. Kendrick</i>
503.04	Note 3: Added <i>Nike, Inc. v. Palm Beach Crossfit, Inc.</i>
507.02	Note 9: Added <i>Embarcardero Techs., Inc. v. Dephix</i>
510.02	Modified wording regarding when a proceeding is considered final
514.01	Added language regarding requirements for motion to amend registration
518	Note 7: Added <i>Guess? IP Holder LP v. Knowlux LLC</i>
527.03	Added language regarding interlocutory attorney’s discretion to issue sanctions addressing party conduct with respect to motions, requests, and other matters not actually or potentially dispositive
528.01	Note 8: Added <i>Embarcardero Techs., Inc. v. Dephix</i>
528.02	Note 2: Added <i>Unrock Network, LLC v. Sulpasso</i> and <i>Be Sport, Inc. v. Al-Jazeera Satellite Channel</i>
528.03	Note 6: Correct citation to <i>Capital Speakers Inc. v. Capital Speakers Club of Washington D.C. Inc.</i>
528.05(a)(1)	Added language re: a party’s ability to make of record documents obtained during settlement negotiations as long as those documents provide establishment of facts learned during settlement negotiations and such documents are otherwise discoverable
528.05(a)(1)	Added new Note 4 to cite to <i>Bad Boys Bail Bonds, Inc. v. Yowell</i> ; re-numbered subsequent notes accordingly
528.06	Note 8: Added <i>Bad Boys Bail Bonds, Inc. v. Yowell</i> ; modified parentheticals to remaining case cites in Note 8 to “same.”
533.02(b)	Note 7: Added <i>Wonderbread 5 v. Gilles</i>
544	Note 2: Added <i>3PMC, LLC v. Stacey Lee Huggins</i>
CHAPTER 600	
602.01	9th paragraph: clarified that if an opposition and an unconsented abandonment of the opposed application are filed on the same day, Trademark Rule 2.135 does not apply
602.01	Note 10: Added <i>3PMC, LLC v. Huggins</i>
602.02(a)	Note 4: Added <i>Harry Winston, Inc. v. Bruce Winston Gem Corp.</i>

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TBMP Section:	Nature of Change:
602.02(b)	Added new Notes 4 & 5 citing to <i>Orange Bang, Inc. v. Ole Mexican Foods, Inc.</i> ; renumbered former Notes 4-15
602.02(b)	Added new paragraph 4 to explain that in a cancellation proceeding against any registration having multiple goods and/or services within a single class, if the respondent permits one or some of the goods or services which is the subject of the cancellation proceeding to be cancelled under Trademark Act §§ 8 or 71 by failing to include a statement of continuing use, or fails to renew the registration under Trademark Act §§ 9 or 70 with respect to that particular good(s) or service(s), the cancellation or failure to renew with respect to that good(s) or service(s) is governed by 37 CFR § 2.134(b)
602.02(b)	Explained that Board has discretion not to issue order to show cause under Trademark Rule 2.134(b) and added new Note 7 citing to <i>Orange Bang, Inc. v. Ole Mexican Foods, Inc.</i>
602.02(b)	Added <i>Orange Bang, Inc. v. Ole Mexican Foods, Inc.</i> to renumbered Note 8
CHAPTER 700	
702.01	1st para: Added reference to 37 CFR § 2.121(e)
702.01	7th para: Added reference to TBMP § 533.02(b)
702.01	Added new Note 19 citing <i>Swiss Grill Ltd. v. Wolf Steel Ltd.</i> and statement that “Parties may stipulate to waive the requirement for pretrial disclosures in ACR cases.”
702.01	Note 6: Added <i>Wonderbread 5 v. Gilles</i>
702.01	Added new Note 12 citing 37 CFR § 2.121(e) and <i>Wonderbread 5 v. Gilles</i>
702.01	Renumbered Note 16: Added <i>Wonderbread 5 v. Gilles</i>
702.04(a)	Added new paragraph that “Parties may also agree under ACR to forego pretrial disclosures. Furthermore, if an ACR stipulation is silent on the issue of pretrial disclosures and no pretrial disclosures were in fact filed by either party, the Board will interpret the stipulation as waiving this requirement.” Added new Note 6 citing <i>Swiss Grill Ltd. v. Wolf Steel Ltd.</i>
702.04(a)	Note 2: Added <i>Swiss Grill Ltd. v. Wolf Steel Ltd.</i>
702.04(e)	Note 1: Added <i>N.Y. Yankees Partnership v. IET Products & Services, Inc.</i>
703.01(b)	Notes 5 & 6: Added <i>N.Y. Yankees Partnership v. IET Products & Services, Inc.</i>
703.01(n)	Note 2: Added <i>Cf. Hollywood Casino LLC v. Chateau Celeste, Inc.</i>
703.01(p)	Note 1: Added <i>Cf. ProMark Brands Inc. v. GFA Brands, Inc.</i>
703.02(k)	Note 2: Added <i>Bayer Consumer Care AG v. Belmora LLC</i>
704.03(a)	Note 1: Added <i>Orange Bang, Inc. v. Ole Mexican Foods, Inc.</i>
704.07	Note 5: Added <i>Southwestern Mgmt., Inc. v. Ocinomled, Ltd.</i>
704.08(a)	Note 9: Added <i>Orange Bang, Inc. v. Ole Mexican Foods, Inc.</i>
704.08(c)	Note 1: Added <i>Swatch AG (Swatch SA) (Swatch Ltd.) v. M. Z. Berger & Co.</i>
704.09	Note 2: <i>Southwestern Mgmt., Inc. v. Ocinomled, Ltd.</i>
704.10	Note 13: Added <i>N.Y. Yankees Partnership v. IET Products & Services, Inc.</i>

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TBMP Section:	Nature of Change:
704.12(a)	Note 2: Added <i>Nike, Inc. v. Palm Beach Crossfit Inc.</i>
705	Note 4: Added <i>N.Y. Yankees Partnership v. IET Products & Services, Inc.</i>
706	Note 1: Added <i>Wonderbread 5 v. Gilles</i>
707.03(b)(3)	Note 1: <i>Bayer Consumer Care AG v. Belmora LLC</i>
	CHAPTER 800
801.01	Added language to clarify citation to TTABVUE
801.01	Added Note 2 to clarify how to cite to TTABVUE evidence; changed subsequent note numbering.
801.01	Note 3 (new numbering): updated <i>General Mills</i> case citation
801.01	Note 4 (new numbering); updated <i>Nahsin</i> case citation.
801.03	Changed language to “Parties <i>shall</i> [from should] include a citation to the TTABVUE . . .” to emphasize need to cite to TTABVUE.
801.03	Changed “should” to “shall” reinforcing requirement that reply brief be limited to the key points in defendant’s brief.
802.02	New 2d para: add information about scheduling oral hearings
804	Deleted language “issued after final hearing” to correspond with titles of Sections 803 and 804.
805	Note 1: added cite to <i>First International Services Corp. v. Chuckles Inc.</i>
	CHAPTER 900
901.01	Note 1: Added <i>Shammas v. Focarino</i> and <i>Product Source International, LLC v. Nahshin</i>
901.02(a)	Note 3: Added <i>3PMC, LLC v. Huggins</i>
901.03	Note 1: Added <i>3PMC, LLC v. Huggins</i>
902.01	New paragraph recommending that a courtesy copy of the notice of appeal to the Court of Appeals for the Federal Circuit be submitted directly to the Board by filing it through ESTTA.
903.01	Adds that a party seeking review of a Board decision by commencing a civil action should notify the Board via ESTTA.
903.07	Added new Note 2 citing <i>Belmora LLC v. Bayer Consumer Care AG</i>
906.01	5th paragraph: Added additional examples of findings of fact whether an asserted mark is generic; whether the later version of a mark creates the same continuing commercial impression; and whether applicant had a bona fide intent to use the mark in commerce; added new Notes 21-23.
906.01	Added new paragraph explaining that In <i>B & B Hardware, Inc. v. Hargis Industries, Inc.</i> , the Supreme Court held that collateral estoppel or issue preclusion can be based on a Board decision if the ordinary elements of issue preclusion are met. Further notes that the District Court for the Eastern District of Virginia, citing <i>B&B Hardware</i> , gave preclusive effect to a TTAB decision that found the defendant had committed fraud. Added new Note 29.
906.01	Note 3: Added <i>Belmora LLC v. Bayer Consumer Care AG</i>
906.01	Note 9: Added <i>In re TriVita, Inc.</i> ; <i>In re Louisiana Fish Fry Products, Ltd.</i> ; and <i>Couture v. Playdom, Inc.</i>

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TBMP Section:	Nature of Change:
906.01	Note 11: Added <i>Jack Wolfskin Ausrüstung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.</i>
906.01	Note 16: Added <i>Juice Generation, Inc. v. GS Enterprises, LLC; Princeton Vanguard, LLC v. Frito-Lay North America, Inc.</i>
906.01	New Note 21: <i>Princeton Vanguard, LLC v. Frito-Lay North America, Inc.</i>
906.01	New Note 22: <i>Jack Wolfskin Ausrüstung Fur Draussen GmbH & Co. KGAA v. New Millennium Sports, S.L.U.</i>
906.01	New Note 23: <i>M.Z. Berger & Co. v. Swatch AG</i>
906.01	Renumbered Note 24: Added <i>In re Louisiana Fish Fry Products, Ltd.; Princeton Vanguard, LLC v. Frito-Lay North America, Inc.; Couture v. Playdom, Inc.</i>
906.01	Renumbered Note 25: Added <i>Juice Generation, Inc. v. GS Enterprises, LLC</i>
	CHAPTER 1000
1003	4th & 5th paras: reference to correspondence also by email 6th para: Cross reference to TBMP § 1004 changed to § 1003
1007	1st para, 1st sentence – divided into 3 sentences
	CHAPTER 1100
1101.01	Note 1: Added <i>Southwestern Management, Inc. v. Ocinomled, Ltd.</i> and <i>Bad Boys Bail Bonds, Inc. v. Yowell</i>
1101.01	Note 3: Added <i>Southwestern Management, Inc. v. Ocinomled, Ltd.; Bad Boys Bail Bonds, Inc. v. Yowell</i>
1101.01	Note 4: <i>Southwestern Management, Inc. v. Ocinomled, Ltd.</i>
1102.01	2nd para: Added “geographic” before “area” and “time” before “periods”
1102.01	Note 3: Added subsection “(b)” to 37 CFR § 2.42
1103	Updated 37 CFR § 2.42
1103.01	Updated subsection “(3)” and “(4)”
1103.01	Note 3: Added subsections “(b)(1)-(3)” to 37 CFR § 2.42
1103.01	Note 6: Added subsections “(b)(4)-(9)” to 37 CFR § 2.42
1103.01(a)	Note 1: Added <i>Bad Boys Bail Bonds, Inc. v. Yowell</i>
1103.01(c)	Note 1: Added <i>Bad Boys Bail Bonds, Inc. v. Yowell</i>
1103.01(d)(1)	Updated 37 CFR § 2.42
1103.01(d)(1)	1st para: Updated to reflect amended 37 CFR § 2.42
1103.01(d)(1)	Note 1: Added subsection “(b)” to 37 CFR § 2.42
1103.01(d)(2)	Note 1: Added <i>Southwestern Management, Inc. v. Ocinomled, Ltd.</i>
1103.01(e)	Note 1: Deleted citation to Federal Register Notice
1103.01(e)	Note 3: Added subsection “(b)” to 37 CFR § 2.42
1103.02	Note 1: Added subsection “(b)” to 37 CFR § 2.42
1103.03	Note 1: Added subsection “(a)” to 37 CFR § 2.42 and “37 CFR § 2.44 and 2.45, if applicable”
1103.03	Note 2: Added subsection “(b)” to 37 CFR § 2.42
1104	Note 5: Added <i>Southwestern Management, Inc. v. Ocinomled, Ltd.</i>

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TBMP Section:	Nature of Change:
1106.05	1st para: Added after “each user’s use of its particular mark in its particular area or mode of use,” the clause “the registrations issued to or applications filed of the excepted user, if any.”
1106.05	Note 1: Added subsections “(b)(4)-(8)” to 37 CFR § 2.42
1108	Note 2: Added <i>Southwestern Management, Inc. v. Ocinomled, Ltd.</i>
1108	Note 3: Added <i>Bad Boys Bail Bonds, Inc. v. Yowell</i>
	CHAPTER 1200
1201.01	Updated 37 CFR § 2.63(b)(2)(iii)
1201.01	Note 2: Added reference to TMEP § 1702
1201.02	Updated quote from TMEP § 714.03
1201.02	Reordered sentences about filing notice of appeal to indicate preference for filing through ESTTA
1201.02	Revised sentence stating that, if a final action was issued prematurely, the Board will decline to institute the appeal to reflect that most notices of appeal are filed through ESTTA, and ESTTA will automatically generate institution order that is later vacated if final refusal was premature
1201.02	Note 6: Added <i>In re Heatcon, Inc.</i>
1201.02	Note 7: Added <i>In re Heatcon, Inc.</i>
1201.03	Added “timely” between “does not” and “file a notice of appeal,” to clarify that this applies to situation when timely notice of appeal was not filed
1201.04	Note 1: Added <i>In re Brack</i>
1201.05	Updated 37 CFR § 2.63(b)(2)(iii)
1201.05	Moved sentence “The Board will not consider a matter that is appropriate for petition” to next paragraph.
1201.05	Moved Note 13 to end of paragraph, after added sentence
1201.05	Added sentence reflecting TMEP policy in Section 706.01 that an applicant may not challenge by petition the Office’s determination of clear error regarding questions of substance
1201.05	Note 13: Added <i>In re Driven Innovations, Inc.</i> and explained that this case overruled those portions of <i>In re Jump Designs LLC</i> and <i>In re Sambado & Son Inc.</i> , 45 USPQ2d 1312, 1314 (TTAB 1997), previously cited in the note, to the extent they suggest an applicant could petition the Director for review of a clear error determination; deleted <i>In re Tennis Industry Association</i> and <i>In re Greenliant Systems Ltd.</i>
1202.02	Added clarification that the preferred method for filing a notice of appeal is through ESTTA
1202.02	Added explanation about when a petition to revive is filed for the purpose of filing an appeal, that it is preferable to file the notice of appeal through ESTTA, but that the petition to revive should be filed through TEAS and should include a statement that a notice of appeal is being filed with the Board. Further, if the petition to revive and notice of appeal are filed as paper submissions, the notice of appeal should be filed with the Board and the petition to revive should be filed with the Director and include a statement that a notice of appeal is being filed with the Board.

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TBMP Section:	Nature of Change:
1202.02	Note 3. Clarified that notice of appeal is only paper that may be filed with the Board by facsimile transmission
1202.02	Note 4. Updated citation to 37 CFR § 2.195 by eliminating reference to subsection (c)(3).
1202.03	Added sentence in first paragraph to emphasize that the preferred procedure for filing a notice of appeal is through ESTTA
1202.03	5th paragraph provides more instruction about the procedure an applicant should follow when filing a request for reconsideration and notice of appeal: applicant checks the box on the ESTTA form indicating it has filed a request for reconsideration, but files the request for reconsideration through TEAS. If notice of appeal is filed as a paper submission, applicant should include in the notice a statement that a request for reconsideration has been or is being filed. Clarifies that in the case of paper submissions, a request for reconsideration filed at the same time as the notice of appeal should accompany the notice of appeal but should not be in the body of the notice.
1202.03	5th paragraph, the words “or amendment” added to the end to clarify that the practice is applicable to both requests for reconsideration and to amendments, in conformity with TBMP § 1205 which discusses “Amendment of Application During Appeal”
1202.03	6th paragraph rearranges sentences to list filing through ESTTA as the first option
1203.01	Note 3: Added <i>In re Allegiance Staffing</i> and <i>In re Lorillard Licensing Co.</i>
1203.02(a)	1st paragraph adds information that filing a notice of appeal through ESTTA will automatically generate an acknowledgement of the filing
1203.02(a)	5th paragraph clarifies the procedure for the situation in which the Examining Attorney has not acted on a request for reconsideration at the time an appeal is filed, and explains that when the notice of appeal is filed through ESTTA the applicant should check the box that indicates a request for reconsideration is being filed, and ESTTA will electronically generate an acknowledgement of the filing and suspend proceedings in the appeal. It clarifies that the request for reconsideration should be filed through TEAS. It also explains the procedure when the notice of appeal is a paper submissions, that the notice should indicate that there is a pending request for reconsideration or, if the request for reconsideration is being filed contemporaneously with the notice of appeal, it should accompany the notice of appeal
1203.02(a)	Last sentence, that the examining attorney notifies the applicant by telephone or email, is deleted
1203.02(a)	Note 4: Updates citation to TMEP § 1714.01(f)(ii) from (A) to (E).
1203.02(b)	1st paragraph clarifies that the application is sent to Examining Attorney “for preparation of his or her brief”
1203.02(b)	3rd paragraph clarifies that, if the Examining Attorney submits a request for remand to the Board, a copy should be sent to the applicant
1203.02(b)	Note 7: Adds citation of <i>In re Future Ads LLC</i>
1203.02(b)	Note 8: Deletes citation of <i>In re Future Ads LLC</i> (moved to Note 7)

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TBMP Section:	Nature of Change:
1203.02(g)	1st sentence, “claim” changed to “argument”; 3rd sentence adds recognition that examining attorney may be a female
1204	2nd paragraph emphasizes that filing notice of appeal through ESTTA is preferable method, and clarifies that request for reconsideration filed at the same time should be filed through TEAS
1204	4th paragraph explains procedure when there is a pending request for reconsideration at time notice of appeal is filed; the “request for reconsideration” box should be checked on the ESTTA form, and system then automatically generates an order instituting appeal and remanding application
1204	5th paragraph explains procedure when notice of appeal is filed by paper submission and there is a request for reconsideration; Applicant should indicate in notice of appeal that there is a pending request for reconsideration, and paralegal will then send institution order remanding application
1204	5th paragraph, last sentence added advising applicant that it may wish to make a status inquiry if no institution order is received within 60 days of the filing of notice of appeal
1204	7th paragraph clarifies that beginning of paragraph refers to procedure when notice of appeal is filed as a paper submission
1204	7th paragraph, specifies the procedure the Board follows when a notice of appeal is filed through ESTTA and the Examining Attorney is not aware of it when acting on a request for reconsideration
1204	8th paragraph, changed to reflect that when, on remand, the Examining Attorney approves an application, the Examining Attorney no longer notifies the applicant by telephone or email, that the applicant learns of it through a notification of the approval for publication, or the applicant may check TSDR to ascertain the status of the application
1204	8th paragraph, cite to TMEP § 715.04(b) added to end of paragraph
1204	Note 11, adds Cf. to TMEP § 716.03(b).
1204	Note 14, adds Cf. to <i>In re Hughes Furniture Industries, Inc.</i>
1205.01	1st paragraph explains that when filing both an amendment to an application and ex parte appeal the “request for reconsideration” box should be checked on the ESTTA form
1205.01	Added new Notes 2 and 5 with citation to <i>In re Hughes Furniture Industries, Inc.</i>
1205.01	Deleted citation to TMEP § 715.04 from renumbered Note 4
1207.02	6th paragraph, deleted “...the examining attorney should so notify the applicant by telephone or email” and replaced with “The applicant will receive notification that the application has been approved for publication when the Office issues a computer-generated notice of publication; in addition, the applicant may ascertain the status of the application by checking the TSDR database.”
1207.02	Deleted Note 9

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TBMP Section:	Nature of Change:
1207.02	7th paragraph clarifies that when an examining attorney’s request to suspend and remand for additional evidence is granted, the Board will either direct the examining attorney to issue a nonfinal action so that the applicant can respond with argument and evidence, or to issue an Office action omitting the six-month response clause and return the application to the Board.
1208.03	Note 14: Added <i>In re Bay State Brewing Company, Inc.</i> and <i>In re Hinton</i>
1208.04	2nd paragraph: Added that the Board may take judicial notice of census data
1208.04	3rd paragraph: Deleted sentence stating that the Board will only consider dictionary definitions found only in online dictionaries if made of record during the prosecution of the application.
1208.04	Note 5: Added sentence that the Board will consider definitions found only in online dictionaries if made of record during the prosecution of the application.
1208.04	Note 9: Added <i>In re House Beer, LLC</i>
1208.06	Added new Section 1208.06 “Confidential Material” explaining that submissions filed in ex parte examination and subsequent appeal proceedings cannot be filed under seal pursuant to a protective order unless so issued or ordered by any court or by the Board, with Note 1 citing <i>In re Bay State Brewing Company, Inc.</i>
1209.03	Note 1: Added TBMP § 1207.06.
1209.04	1st paragraph, added TBMP § 1204.
1209.04	3rd paragraph clarifies that in instances where an application has been remanded, the examining attorney may only consider the matter for which the application has been remanded, and may not use the remand in order to submit evidence in connection with a refusal or requirement that is not the subject of the remand request in the absence of a separate request for remand
1209.04	Added new Note 3 citing to <i>In re Hughes Furniture Industries, Inc.</i>
1209.04	Added new Note 4 citing to 37 C.F.R. § 2.142(d) and <i>In re Hughes Furniture Industries, Inc.</i>
1213	Added new paragraph explaining that the Board may sua sponte suspend proceedings if the Board is aware of a pending civil action, an appeal of a Board decision, or a Board inter partes proceeding or another appeal that may be dispositive of or have a direct bearing on the issues in the appeal.
1213	Last paragraph, added new number (5) stating that an ex parte appeal may be suspended to consider the effect of a decision in another Board proceeding, appeal or civil action that may have a direct bearing on the issues in the appeal.
1215	Note 2: Added <i>In re Heatcon, Inc.</i>
1216	2d para: add information about scheduling oral hearing; 4th paragraph, explains that the Board uses Cisco Jabber Video for TelePresence software for the video connection, not an ISDN telephone line
1216	5th paragraph, explains that an applicant wishing to reschedule an oral hearing should after telephoning the Hearing Officer follow-up with a

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TBMP Section:	Nature of Change:
	confirmation in ESTTA, not facsimile transmission; in determining whether a request to reschedule will be granted, both the reason for the rescheduling request, and the time in advance of the hearing at which it is made, will be considered.
1217	Note 3: Added <i>In re Heatcon, Inc.</i>
1218	Note 1: Added <i>In re House Beer, LLC</i> and <i>In re Brack</i>