

Attachment C

INDEX TO CHANGES

June 2018

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TBMP Section:	Nature of Change:
	THROUGHOUT MANUAL
	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 (Dec. 2017). (McCarthy is referenced in Chapters 300 and 600).¶ Citations to Wright & Miller Federal Practice and Procedure (FPP) checked and year updated (April 2017). (Referenced in Chapters 300, 400, 500, 700).¶ Checked, and updated 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¶
	CHAPTER 100
Throughout	Update web addresses; change “via ESTTA” to “using ESTTA” (text only; not rule language)
101.05	Add final sentence
107	Para. 1: Add clause to first sentence about notice of ex parte appeal; delete second sentence.
108	Para. 2: new final sentence providing information about when a filing appears in the public electronic docket
109	Para. 4: Add clause to first sentence about notice of ex parte appeal; delete second sentence; delete [Note 6], Para. 5: renumber [Note 7] to [Note 6] NOTES: delete note 6; renumber note 7 to note 6.
110.01	Para. 5: clarify requirement by adding “and entered” to last sentence
110.01(a)	Note 2: Add parenthetic information to last 3 citations
110.01(b)	Note 2: add reference to <i>O.C. Seacrets Inc. v. Hotelplan Italia S.p.A.</i> , 95 USPQ2d 1327, 1328 n.2 (TTAB 2010).
110.02(b)	Para. 1: add final sentence recommending “machine readable” submissions
111	Para. 3: delete redundant reference to paper form
111.02(c)	Para. 3: delete first sentence
120.02	Note 4: delete info about appeal from <i>ProMark Brands, Inc. v. GFA Brands, Inc.</i> , 114 USPQ2d 1232, 1238 n.24 (TTAB 2015)
121	Para. 2: delete full name for TSDR as it is in the List of Acronyms

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

TBMP Section:	Nature of Change:
	<p>Para. 3: modify language in first sentence to reflect that the Office only provides certified copies of files; uncertified copies are available online. Para. 4: remove reference to uncertified copies</p>
122.02	Add instructional information for ordering copies online
CHAPTER 200	
201	<p>Final paragraph, added reference to TBMP § 106.03 Note 1 added “ See also <u>37 CFR § 2.80</u> (mark entitled to registration will be published in the Official Gazette for opposition).” Note 3, added “ See TMEP § 1503.04.” Note 4, added “ See also <u>37 CFR 2.126(a)</u> (“Submissions must be made to the Trademark Trial and Appeal Board via ESTTA.”).” Note 5, added “ See <i>In re Börlind Gesellschaft für kosmetische Erzeugnisse mbH</i>, 73 USPQ2d 2019, 2020-21 (TTAB 2005) (requests for extension of time to oppose a Trademark Act § 66(a) (Madrid Protocol) application must be filed via ESTTA; paper requests for extensions will be denied).”</p>
202.01	<p>Clarified procedure for requesting extensions; moved “Requests for extension of time to oppose a Trademark Act § 66(a) application may not under any circumstances be filed in paper form.” From Note 4 (renumbered) to body of text, added that paper submissions must also meet general requirements of 37 CFR 2.126 Note 1, moved up to middle of paragraph in which it appears; added cite to “ <i>In re Kabushiki Kaisha Hitachi Seisakusho</i>, 33 USPQ2d 1477, 1478 (Comm’r Pats. 1994)” and “ <i>Cf. Yahoo! Inc. v. Loufrani</i>, 70 USPQ2d 1735, 1736 (TTAB 2004) (because requirements of Section 13(a) of the Act for the filing of an opposition are statutory, they cannot be waived by stipulation of the parties, nor can they be waived by the Director on petition).” New Note 2, “37 CFR § 2.102(b).” Note 3 (renumbered), added “ See also <u>37 CFR 2.126(a)</u> (“Submissions must be made to the Trademark Trial and Appeal Board via ESTTA.”).” Note 4 (renumbered), added cite to “37 CFR § 2.102(a)(2)” and deleted “Requests for extension of time to oppose a Trademark Act § 66(a) application may not under any circumstances be filed in paper form.” Added new Note 5, “ <u>37 CFR § 2.102(a)(1)</u>. See <i>NSM Res. Corp. v. Microsoft Corp.</i>, 113 USPQ2d 1029, 1039 n.19 (TTAB 2014) (Use of ESTTA is mandatory for the filing of extensions of time to oppose applications filed under the Madrid Protocol).” Deleted from Note 6 (renumbered), “37 CFR § 2.102(a)(1).” Note 7 (renumbered), added “ <i>Cf. DFC Expo LLC v. Coyle</i>, 121 USPQ2d 1903 (TTAB 2017) (untimely paper submission of notice of opposition without certificate of mailing, fees, or petition to Director denied).” Note 8 (renumbered), added and <u>37 CFR § 2.102(d)</u>. Note 9 (renumbered), added <u>(1)(i) – 37 CFR § 2.102(c)(2)</u>. Note 10 (renumbered), replaced hyphen with “and” Note 11 (renumbered). New Note 12, “37 CFR § 2.102(c)(1)(ii).” Note 13 (renumbered)</p>

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TBMP Section:	Nature of Change:
	Note 14 (renumbered)
202.04	<p>Added text to advise potential opposers that parties may not rely on information obtained by telephone with the Board.</p> <p>Note 1, deleted cite to <i>In re Cooper</i>.</p> <p>Note 2, added “ <i>See In re Kabushiki Kaisha Hitachi Seisakusho</i> , 33 USPQ2d 1477, 1478 (Comm’r Pats. 1994) (citing <i>In re Cooper</i>, 209 USPQ 670, 671 (Comm’r 1980)) (timeliness of extension requests is statutory and cannot be waived); <i>cf. Yahoo! Inc. v. Loufrani</i>, 70 USPQ2d 1735, 1736 (TTAB 2004) (because requirements of Section 13(a) of the Act for the filing of an opposition are statutory, they cannot be waived by stipulation of the parties, nor can they be waived by the Director on petition)” and deleted “ <i>See In re Sasson Licensing Corp.</i>, 35 USPQ2d 1510, 1512 (Comm’r 1995) (waiver of 37 CFR § 1.8 (now 37 CFR § 2.197) would effectively waive Trademark Act § 13, 15 U.S.C § 1063(a), and, in any event, fact that potential opposer did not retain executed hard copies of documents filed with Office and cannot prove document was timely is not an extraordinary circumstance justifying a waiver of 37 CFR § 1.8); <i>In re Kabushiki Kaisha Hitachi Seisakusho</i>, 33 USPQ2d 1477, 1478 (Comm’r 1994); <i>In re Cooper</i>, 209 USPQ 670, 671 (Comm’r 1980).”</p> <p>New Note 3, “ <i>Cf. PPG Industries, Inc. v. Guardian Industries Corp.</i>, 73 USPQ2d 1926, 1927 (TTAB 2005) (“... when a paper is filed via ESTTA, it must be signed in conformance with Rule 2.193(c)(1)(iii). As a practical matter, ESTTA will allow the filing party to complete the submission process only after the required electronic signature has been entered.”).”</p> <p>New Note 4, “ <i>See In re Merck & Co.</i>, 24 USPQ2d 1317, 1318 n. 2 (Comm’r 1992).”</p>
203.01(a)	<p>Clarified timing of extension requests and that paper submissions are available only for requests against applications based on Section 1 or 44 and not 66(a).</p> <p>Note 1, added “ <i>See also</i> 37 CFR 2.126(a) (“Submissions must be made to the Trademark Trial and Appeal Board via ESTTA.”).”</p> <p>Note 2, added “and 37 CFR § 2.102(a)(2).”</p> <p>Note 3, added “ <i>See NSM Res. Corp. v. Microsoft Corp.</i>, 113 USPQ2d 1029, 1039 n.19 (TTAB 2014) (Use of ESTTA is mandatory for the filing of extensions of time to oppose applications filed under the Madrid Protocol).”</p> <p>Note 4, changed 37 CFR § 2.102(c)(1) to “<u>37 CFR § 2.102(c)(1)(i) – 37 CFR § 2.102(c)(2).</u>”</p> <p>Note 5, changed <u>37 CFR § 2.102(c)(1)</u> to “ <u>37 CFR § 2.102(c)(1)(i) .”</u></p>
203.01(b)	Note 3, added “name” to contact information required when sending email inquiry to the Board.
203.02(a)	<p>Added, “Multiple claimants seeking to proceed as co-opposers should use a separate form for each potential opposer. <i>See TBMP § 203.02(b).</i>”</p> <p>Note 1, deleted reference to 37 CFR § 2.194(b)(2) and added “ <i>Yahoo! Inc. v. Loufrani</i>, 70 USPQ2d 1735, 1736 n.4 (TTAB 2004) (opposition dismissed as nullity where notice of opposition misidentified the application sought to be opposed).”</p>

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TBMP Section:	Nature of Change:
203.02(b)	<p>Added to first paragraph, “Any requests for extensions of time to oppose in which the potential opposer is not identified with reasonable certainty cannot be remedied after the opposition period, including any extensions, has expired.”</p> <p>Note 3, added “ <i>SDT Inc. v. Patterson Dental Co.</i>, 30 USPQ2d 1707, 1709 (TTAB 1994) (Multiple claimants may initiate opposition together and proceed as co-opposers, if opposition is filed within statutory opposition period or during extension of time, and if each of joint opposers submits opposition fee and establishes standing and grounds for opposition).”</p>
203.05	<p>Added that parties should promptly notify Board of any duplicate requests.</p>
204	<p>Added that petition fees are in addition to fees for extension requests.</p> <p>Moved Note 1 and added, “(a)(22)(i) and”</p> <p>Note 2, added “<u>37 CFR § 2.6(a)(23)(i)</u> and”</p>
206.01	<p>Note 4, added “ <i>See 37 CFR § 2.102(b)</i>; <i>SDT Inc. v. Patterson Dental Co.</i>, 30 USPQ2d 1707, 1709 (TTAB 1994) (“[A]n extension of time to oppose inures to the benefit of the potential opposer and its privies, so that a party in privity with a potential opposer may step into the potential opposer's shoes and file a notice of opposition <u>or</u> may join with the potential opposer as a joint opposer.”); <i>In re Cooper</i>, 209 USPQ 670, 671 (Comm’r 1980).”</p> <p>And moved to Note 5, “ <i>Renaissance Rialto Inc. v. Boyd</i>, 107 USPQ2d 1083, 1087 (TTAB 2013) (acquisition of another’s right to oppose, independent of a transfer of rights to a trademark and its associated goodwill, is an insufficient basis upon which to claim the benefit of the transferor’s personal privilege in an extension of time to oppose); <i>Cass Logistics Inc. v. McKesson Corp.</i>, 27 USPQ2d 1075, 1077 (TTAB 1993) (“A party cannot claim the benefit of an extension granted to another (unrelated) party.”).”</p> <p>Note 5, deleted “ <i>See 37 CFR § 2.102(b)</i>; <i>SDT Inc. v. Patterson Dental Co.</i>, 30 USPQ2d 1707, 1709 (TTAB 1994); <i>In re Cooper</i>, 209 USPQ 670, 671 (Comm’r 1980).” and added the above from Note 4.</p>
206.02	<p>Note 1, added “ <i>In re Spang Industries, Inc.</i>, 225 USPQ 888, 888 (Comm’r 1985) (“parties in privity must have the same right or interest”);”</p> <p>Note 2, changed parenthetical to <i>Renaissance Rialto</i> to “notice of opposition untimely where opposer, as purported assignee, could not succeed to any proprietary interest in the mark because transferor had no rights to transfer)” and added to parenthetical for <i>In re Cooper</i>, “despite having both been named as defendants in civil actions brought by owner of mark”.</p>
206.03	<p>Added that requisite showing of misidentification of potential oppose made by mistake must be submitted with the extension request or opposition.</p> <p>Note 2, added to parenthetical for <i>Arbrook</i>, “and original owner assigned mark to oppose nunc pro tunc” and changed parenthetical to <i>In re Eucryl</i> to “exclusive U.S. distributor is owner only if it has agreement with manufacturer providing for right to apply; since distributor had no right to apply, despite its being a sister company and thus related to manufacturer, subsequent assignment to manufacturer did not cure defect”.</p>
207.01	<p>Clarified timing for requests to extend time to oppose.</p> <p>Note 3, changed 37 CFR § 2.102(c)(1) to “37 CFR § 2.102(c)(1)(i)” and added “and <u>37 CFR § 2.102(c)(2)</u>.”</p>

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TBMP Section:	Nature of Change:
	<p>Note 4, changed 37 CFR § 2.102(c)(3) to “<u>37 CFR § 2.102(c)(1)(ii).</u>” Note 5, changed 37 CFR § 2.102(c)(3) to “<u>37 CFR § 2.102(c)(1)(ii).</u>” New Note 6, “37 CFR § 2.102(c)(3).” New Note 7, “37 CFR § 2.102(c)(3).”</p>
207.02	<p>Added “ See <u>TBMP § 209.02</u> for information on calculating extension expiration dates.”</p>
207.03	<p>Clarified timing of extension requests and added “ See <u>TBMP § 209.02</u> for information on calculating extension expiration dates.” Note 5, added “ <i>In re Software Dev. Sys. Inc.</i>, 17 USPQ2d 1094 (Comm'r Pat. 1989) (Board acted properly in denying request for extension without proof of service on applicant).” Note 6, changed parenthetical to <i>In re Su Wung Chong</i> to “inadvertent omission of showing of extraordinary circumstances, or consent, at the time extension request was filed does not constitute reason to accept extension; whether applicant’s silence in response to potential opposer’s inquiries about extension requests amounted to consent was “not the question on petition.”.”</p>
209.02	<p>Note 7, changed See 37 CFR § 2.102(c)(i) - 37 CFR § 2.102(c)(2)(ii) to “ See <u>37 CFR § 2.102(c)(1)(i)</u> and <u>37 CFR § 2.102(c)(2)</u> ”</p>
211.03	<p>Added to last paragraph, “If the Director denies the petition, the petitioner may request reconsideration within the prescribed time and upon payment of a second petition fee. [Note 10].” New Note 10, “<u>37 CFR 2.146(i)(1)(i) - (ii)</u> and <u>37 CFR 2.146(i)(2).</u>”</p>
212.01	<p>Paragraph 1, added “and has jurisdiction over matters relating to any requested extensions of time to oppose an application.” Paragraph 2, changed “Trademark Operation” to “Trademark Examining Operation” and added “concerning an application which is the subject of a request for an extension of time to oppose”; also clarified that unless application is involved in Board proceeding, amendments should be directed to Trademark Examining Operation. Paragraph 4, added “to an application which is the subject of a request for an extension of time to oppose that is” Paragraph 5, changed “Trademark Operation” to “Trademark Examining Operation” Note 3, changed “Trademark Operation” to “Trademark Examining Operation”</p>
212.02	<p>Paragraph 1, added that amendment must be compliant with 37 CFR §§ 2.71, 2.72 and 2.74, added “Otherwise, an amendment to such an application may be submitted only upon petition to the Director to restore jurisdiction over the application to the examining attorney for consideration of the amendment and further examination. [Note 2].” And changed, “If a refusal or requirement by the examining attorney would be needed” to “If a proposed amendment would necessitate issuance of a refusal or requirement by the examining attorney,” New Note 1, “37 CFR § 2.84(b).” New Note 2, “37 CFR § 2.84(b).”</p>

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TBMP Section:	Nature of Change:
	Note 4, added “; <u>37 CFR § 2.71</u> (amendments to correct informalities); <u>37 CFR § 3.72</u> (amendments to description or drawing of the mark); <u>37 CFR § 2.73</u> (amendment to recite concurrent use).”
212.03	Added “Any inquiry about the status of the amendment should be directed by email to: TMPostPubQuery@uspto.gov.”
212.04	Changed “Trademark Operation” to “Trademark Examining Operation”
212.05	Paragraph 2, changed “Trademark Operation” to “Trademark Examining Operation”
212.06	Changed “Trademark Operation” to “Trademark Examining Operation” and added “or reset” to last sentence and penultimate sentence.
213	<p>Paragraph 2, added “by the Director” after “granted” in first sentence, added “during the running of an extension of time to oppose” to the second sentence and deleted “thereof, and take further appropriate action. Examples are described below.”</p> <p>Paragraph 3, deleted “If the restoration of jurisdiction occurs during the running of an extension of time to oppose, the order will inform the potential opposer and applicant”</p> <p>Merged paragraphs 2 and 3 into one.</p>
215	<p>Paragraph 2, added “In the case of a published application that is not the subject of an opposition, if the Deputy Commissioner determines that a clear error was made in allowing publication, jurisdiction over the application will be restored to the examining attorney to take appropriate action on the letter of protest. [Note 4.]” Changed last sentence to, “If the application is the subject of an opposition, any request for restoration of jurisdiction and remand of the application to the examining attorney must be directed to the Board.”</p> <p>Paragraph 6, added “If the Deputy Commissioner determines that the evidence submitted by the protester is relevant and supports a reasonable ground for refusal, the examining attorney must consider the evidence and make an independent determination whether to issue a requirement or refusal based on the objections raised in the letter of protest.”</p> <p>“Please note:” added “to the trademark examining attorney for an ex parte determination of the question of registrability” after “remanded.”</p> <p>Note 3, added “ <i>But compare Kohler Co. v. Honda Giken Kogyo K.K.</i>, 125 USPQ2d 1468, 1474 (TTAB 2017) (letter of protest granted four months after date of publication) <i>with</i> ” and “ <i>Cf. Nat’l Cable Television Assoc. Inc. v. Am. Cinema Editors Inc.</i>, 19 USPQ2d 1424 (Fed. Cir. 1991) (letter of protest filed after registration issued deemed “an ineffectual gesture”).”</p> <p>New Note 4, “37 CFR § 2.130; <i>Kohler Co. v. Honda Giken Kogyo K.K.</i>, 125 USPQ2d 1468, 1474 (TTAB 2017); <i>In re Candy Bouquet Int’l Inc.</i>, 73 USPQ2d 1883, 1884 n.2 (TTAB 2004) (“The Office will grant a letter of protest only if the protestor submits prima facie evidence supporting a refusal of registration, such that publication of the mark without consideration of the issue and evidence presented in the letter of protest was or would be a clear error by the Office.”).”</p>

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TBMP Section:	Nature of Change:
	<p>Note 8, added “ <i>Accord, Sheetz of Del., Inc. v. Doctor’s Assocs. Inc.</i>, 108 USPQ2d 1341 (TTAB 2013) (letter of protest determined during prosecution of application submitted as evidence by opposer during trial).” Renumbered Notes.</p>
216	<p>Last paragraph, changed “during a timely opposition” to “during such time as a timely request for an extension of time to oppose is pending” Note 1, added “ <i>In re Siemens Aktiengesellschaft</i>, 34 USPQ2d 1862, 1863 (Comm’r Pat. 1995) (inherent authority to cancel an inadvertently issued registration “is to be exercised with caution.”) (citing” Note 3, added “(Comm’r 2000)”</p>
219	<p>Paragraph 5, moved Note 5 to end of first sentence.</p>
220	<p>Paragraph 2, changed “Additionally” to “If” in second sentence and deleted “In that case” from third sentence, thereby merging the second and third sentences into one.</p>
CHAPTER 300	
303.05(a)	<p>First paragraph, changed “insures” to “inures”</p>
307.01	<p>Third paragraph, removed from text “or disparaging” Note 4 added “The refusal on the ground of disparagement was held to be unconstitutional by the U.S. Supreme Court in <i>Matal v. Tam</i>, 137 S.Ct. 1744 (2017).”</p>
308.02(b)	<p>Third paragraph, deleted duplicative “to pay”</p>
309.03	<p>Subparagraph (3), deleted “that defendant’s mark disparages members of a particular group” Note 13 added “The refusal on the ground of disparagement was held to be unconstitutional by the U.S. Supreme Court in <i>Matal v. Tam</i>, 137 S Ct. 1744 (2017).” Rest of footnote deleted. Note 14 added “The Court of Appeals for the Federal Circuit held the refusal on the ground of immoral and scandalous to be unconstitutional in <i>In re Brunetti</i>, 877 F.3d 1330, 125 USPQ2d 1072 (Fed. Cir. 2017), citing <i>Matal v. Tam</i>, 137 S.Ct. 1744 (2017). For prior cases applying the refusal <i>see</i>” Deleted final paragraph of Note 14 describing prior status of <i>Tam</i> and <i>Brunetti</i>. Note 43 added case cite to <i>Giersch v. Scripps</i>, 90 USPQ2d 1020, 1023 (TTAB 2009) (petitioner established common rights through “regular and recurring” use of distinctive mark). Note 49 changed to read Please Note: In cases where a plaintiff has relied on its ownership of a pleaded registration, any counterclaim or petition to cancel that registration may be decided before the issues in the underlying opposition, at the discretion of the Board. <i>See, e.g., Marshall Field & Co. v. Mrs. Fields Cookies</i>, 25 USPQ2d 1321, 1328 (TTAB 1992); <i>General Mills Inc. v. Health Valley Foods</i>, 24 USPQ2d 1270, 1272 (TTAB 1992); <i>but see Del. Quarries, Inc. v. PlayCore IP Sub, Inc.</i>, 108 USPQ2d 1331, 1332 (TTAB 2013) (Board properly retained jurisdiction to decide applicant’s counterclaim after finding no likelihood of confusion since “[s]tanding is assessed at the time the counterclaim is filed”).</p>

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TBMP Section:	Nature of Change:
309.03(c)	Split into two sections: 309.03(c)(1) “In General” and 309.03(c)(2) “Priority and Likelihood of Confusion” New 309.03(c)(2) further split into two subsections A: Priority and B. Likelihood of confusion.
311.02(b)	Note 2 modified parenthetical for case cite <i>Truescents LLC v. Ride Skin Care LLC</i> , 81 USPQ2d 1334, 1338 (TTAB 2006) (applicant’s “fair use” defense given no consideration) Note 2 modified pin cite <i>Hornblower & Weeks Inc.</i> , 60 USPQ2d 1733, 1737 (TTAB 2001) (defendant not entitled to rely on asserted ownership of “family” of marks as defense to Trademark Act § 2(d), 15 U.S.C. § 1052(d) claim). Note 12 added case cite <i>Truescents LLC v. Ride Skin Care LLC</i> , 81 USPQ2d 1334, 1338 (TTAB 2006) (applicant’s “fair use” defense given no consideration)
311.02(d)	Note 1 removed reference to <i>Blackhorse v. Pro-Football Inc.</i> , 98 USPQ2d 1633, 1637-38 (TTAB 2011)
313.04	Note 2 added case cite for <i>But see Jive Software, Inc. v. Jive Communications, Inc.</i> , 125 USPQ2d 1175 (TTAB 2017) (finding leave to add a counterclaim is governed by Rule 15 and is to be “freely given when justice so requires,” Board allowed applicant to amend opposition to assert counterclaim for cancellation of opposer’s pleaded registrations since case was suspended by parties and actual delay was minimal).
	CHAPTER 400
401.02	Note 5: add <i>Kate Spade LLC v. Thatch, LLC</i> , 126 USPQ2d 1098, 1103-04 (TTAB 2018)
401.03	Note 12: add <i>Monster Energy Co. v. Martin</i> , 125 USPQ2d 1774, 1776 (TTAB 2018) Note 13: add <i>Monster Energy Co. v. Martin</i> , 125 USPQ2d 1774, 1776 (TTAB 2018)
402.02	Note 5: add subsequent history to <i>In re Seagate Technology LLC</i> , 497 F.3d 1360, 83 USPQ2d 1865, 1873 (Fed. Cir. 2007) Note 6: add subsequent history to <i>In re Seagate Technology LLC</i> , 497 F.3d 1360, 83 USPQ2d 1865, 1873 (Fed. Cir. 2007)
403.01	Note 8: add <i>Estudi Moline Dissey, S.L. v. BioUrn Inc.</i> , 123 USPQ2d 1268, 1270 (TTAB 2017)
403.02	Note 5: add <i>Estudi Moline Dissey, S.L. v. BioUrn Inc.</i> , 123 USPQ2d 1268, 1270 (TTAB 2017)
403.03	Note 6: add <i>Estudi Moline Dissey, S.L. v. BioUrn Inc.</i> , 123 USPQ2d 1268, 1271 (TTAB 2017)
404.09	Note 12: add <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i> , 125 USPQ2d 1236, 1240 (TTAB 2017) Note 15: add <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i> , 125 USPQ2d 1236, 1240 (TTAB 2017)
405.01	Note 1: add <i>Estudi Moline Dissey, S.L. v. BioUrn Inc.</i> , 123 USPQ2d 1268, 1270 (TTAB 2017)

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TBMP Section:	Nature of Change:
405.04(b)	Para. 1: add new text about objections; add new Notes 2-4; old Notes 2-7 renumbered Notes 5-10 New Notes 2-4; remaining notes renumbered
406.01	Note 2: add <i>Estudi Moline Dissey, S.L. v. BioUrn Inc.</i> , 123 USPQ2d 1268, 1270 (TTAB 2017)
406.04(c)	Para. 1: add new text about objections; add new Notes 2-3; Notes 2-14 renumbered as Notes 4-16 New Notes 2-3; remaining notes renumbered
406.05	37 C.F.R. § 2.120(e): correct reference to “interrogatories” by replacing with “requests”
407.01	Note 3: add <i>Estudi Moline Dissey, S.L. v. BioUrn Inc.</i> , 123 USPQ2d 1268, 1270 (TTAB 2017)
408.01(c)	37 C.F.R. § 2.120(f)(1): correct language of rule in accordance with amendment (“prior to” in second sentence is “before the day of”
411.02	Para. 1: add sentence about timing of a motion to compel; new Note 3; prior Note 3 renumbered as Note 4. New Note 3; remaining note renumbered
411.04	Para. 1: New second sentence about the timing of a motion to compel; new Note 2; prior Notes 2-3 renumbered as Notes 3-4 New Note 2; remaining notes renumbered
412.01	Note 9: add <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i> , 125 USPQ2d 1236, 1238 (TTAB 2017)
412.01(c)	Note 8: add <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i> , 125 USPQ2d 1236, 1238 (TTAB 2017) Note 17: add <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i> , 125 USPQ2d 1236, 1237-38 (TTAB 2017)
	CHAPTER 500
Throughout chapter	Non-substantive grammar and language changes for clarity and accuracy
501.01	Note 4: Corrected citation to <i>Fiserv, Inc. v. Electronic Transmission Systems Corp.</i> , 113 USPQ2d 1913, 1916 (TTAB 2015)
502.03	Note 2: Added that <i>TBC Corp. v. Grand Prix Ltd.</i> , 12 USPQ2d 1311 (TTAB 1989) was overruled on other grounds by <i>Jive Software, Inc. v. Jive Communications, Inc.</i> , 125 USPQ2d 1175 (TTAB 2017).
503.01	Note 5: Add citation to 5B C. Wright & A. Miller, Federal Practice and Procedure Civil § 1367 (3d ed. 2018).
503.03	Note 4: Add citation to <i>Sun Hee Jung v. Magic Snow, LLC</i> , 124 USPQ2d 1041, 1044 (TTAB 2017).
504.01	Change language regarding deadline for filing motion for judgment on the pleadings from “prior to the deadline” for pretrial disclosures to “before the deadline” for pretrial disclosures for the first testimony period.
504.01	Note 4: Add citation to <i>Shared, LLC v. SharedSpaceofAtlanta, LLC</i> , 125 USPQ2d 1143, 1144 (TTAB 2017) and add citation to MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE 82 Fed. Reg. 33804 (July 21, 2017).

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TBMP Section:	Nature of Change:
507.01	Note 6: Add citation to <i>Destileria Serralles, Inc. v. Kabushiki Kaisha Donq</i> , 125 USPQ2d 1463, 1467-68 (TTAB 2017), <i>on appeal</i> , No. 18-1608 (Fed. Cir. February 23, 2018).
507.02(b)	Revise section to clarify that motions to amend to add counterclaims are governed by Fed. R. Civ. P. 15(a).
507.02(b)	Note 1: Delete discussion of <i>TBC Corp. v. Grand Prix Ltd.</i> , 12 USPQ2d 1311, 1313 (TTAB 1989) and add citation to <i>Jive Software, Inc. v. Jive Communications, Inc.</i> , 125 USPQ2d 1175, 1175-80 (TTAB 2017) (all other notes renumbered accordingly). Added note that motions to amend to assert compulsory counterclaims decided prior to <i>Jive Software, Inc. v. Jive Communications, Inc.</i> , 125 USPQ2d 1175 (TTAB 2017) may have been decided under a more stringent standard and may no longer be controlling.
510.02(a)	Added that the Board may suspend proceedings pending an arbitration between the parties.
510.02(a)	Note 6: Added citation to <i>Hu v. TJ Food Services, LLC</i> , 123 USPQ2d 1777, 1781 (TTAB 2017) (all other notes renumbered accordingly).
514.01	Insert missing reference to Note 5.
514.03	Note 4: Add pincite to <i>Ayoub, Inc. v. ACS Ayoub Carpet Service</i> , 118 USPQ2d 1392, 1394 (TTAB 2016).
521	Add the following example for grounds for a motion to quash a notice of deposition: in the case of a testimonial deposition, the deposition is not scheduled to be taken in a reasonable time or place.
521	Add Note 11 and citation to <i>USPS v. RPost Communication Ltd.</i> , 124 USPQ2d 1045, 1046-47 (TTAB 2017) (all other notes renumbered accordingly).
523.01	Change language regarding deadline for filing motion to compel from “prior to the deadline” for pretrial disclosures to “before the day” of the deadline for pretrial disclosures for the first testimony period.
523.01	Add notes 7 and 8 to include citation to MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE 82 Fed. Reg. 33804 (July 21, 2017) (other notes renumbered accordingly).
523.03	Amend citation to 37 CFR § 2.120(f) to reflect amendment to statutory language to clarify deadline for filing a motion to compel as “before the day of the deadline for pretrial disclosures for the first testimony period” and update language of text accordingly.
523.03	Note 4: add citation to MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE 82 Fed. Reg. 33804 (July 21, 2017).
524.03	Amend citation to 37 CFR § 2.120(i)(1) to reflect amendment to statutory language to clarify deadline for filing a motion to test the sufficiency of responses to requests for admission as “before the day of the deadline for pretrial disclosures for the first testimony period” and update language of text accordingly.

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

TBMP Section:	Nature of Change:
524.03	Note 1: Add citation to MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE 82 Fed. Reg. 33804 (July 21, 2017).
528.02	Amend citation to 37 CFR § 2.127(e)(1) to reflect amendment to statutory language to clarify deadline for filing a motion for summary judgment as “before the day of the deadline for pretrial disclosures for the first testimony period” and update language of text accordingly.
528.02	Add Note 3 to add citation to MISCELLANEOUS CHANGES TO TRADEMARK TRIAL AND APPEAL BOARD RULES OF PRACTICE 82 Fed. Reg. 33804 (July 21, 2017) (all other notes renumbered accordingly).
528.02	Note 5: Add citation to <i>KID-Systeme GmbH v. Turk Hava Yollari Teknik Anonim</i> , 125 USPQ2d 1415, 1416-17 (TTAB 2018).
528.02	Note 6: Add citation to <i>KID-Systeme GmbH v. Turk Hava Yollari Teknik Anonim</i> , 125 USPQ2d 1415, 1416-17 (TTAB 2018).
528.04	Insert parenthetical noting that a party may file a motion for summary judgment prior to making initial disclosures if the motion is based on claim or issue preclusion or lack of jurisdiction.
529	Note 1: Add citation to <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i> , 125 USPQ2d 1236, 1240 (TTAB 2017).
532	Note 1: Add citation to <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i> , 125 USPQ2d 1236, 1240 (TTAB 2017) and <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> , 124 USPQ2d 1160, 1164-65 (TTAB 2017).
532	Note 2: Add citation to <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> , 124 USPQ2d 1160, 1165 (TTAB 2017).
532	Note 3: Add citation to <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i> , 123 USPQ2d 1844, 1846-47 (TTAB 2017).
533.02(b)	Note 6: Add citation to <i>Monster Energy Co. v. Martin</i> , 125 USPQ2d 1774, 1776 (TTAB 2018).
533.03	Note 1: Add citation to <i>Tao Licensing, LLC v. Bender Consulting Ltd.</i> , 125 USPQ2d 1043, 1047 (TTAB 2017).
535	Correct text to reflect three-year period of non-use for abandonment claim, as opposed to prior two-year period.
540	Note 4: add <i>Board of Trustees of the University of Alabama v. Pitts</i> , 115 USPQ2d 1099 (TTAB 2015) Note 6: add <i>Board of Trustees of the University of Alabama v. Pitts</i> , 115 USPQ2d 1099 (TTAB 2015)
544	Move reference to TBMP § 501.01 to body of text and delete Note 12 (all other notes renumbered accordingly).
	CHAPTER 600
	Minor updates per “Throughout Manual”
	CHAPTER 700
701	Note 7: added <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i>

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TBMP Section:	Nature of Change:
702.01	Note 10: changed 37 CFR § 2.123(e)(3) to 37 C.F.R. § 2.121(e) to fix typo Note 17: added <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i>
702.02	Par 2, last sentence: Added cross reference to TBMP § 704.11 n.9 regarding materials stipulated into the record Note 4: added <i>Executive Coach Builders, Inc. v. SPV Coach Co.</i>
702.03	Par 2: added new fourth sentence re: noticing depositions and oral cross-examinations for reasonable place, and new fifth sentence re: conducting depositions and oral cross-examinations by phone or videoconference, and new Notes 6 and 7 Note 5: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Note 6 (New): added <i>USPS v. RPost Communication Ltd.</i> Note 7 (New): added <i>USPS v. RPost Communication Ltd.</i> Renumbered remaining Notes
702.04(a)	Note 1: added subsequent history to); <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i>
702.04(c)	Note 1: added subsequent history to); <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i>
702.04(e)	Note 1: added subsequent history to <i>Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.</i>
702.05	Par 1: added new Note 4 and clarified in next sentence that failure to indicate generally in a notice of reliance the relevance of the evidence and to associate it with issue(s) is curable procedural defect “that does not necessitate reopening a party’s testimony period” Note 1: added <i>RxD Media, LLC v. IP Application Development LLC</i> and deleted <i>Blue Man Productions v. Tarmann</i> Notes 2 and 3: added <i>RxD Media, LLC v. IP Application Development LLC</i> Note 4 (New): added 37 CFR § 2.122(g) and NFRM detailing requirements for admission of evidence by notice of reliance; and <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Note 5 (formerly Note 4): added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Renumbered remaining Notes
703.01(b)	Par 2: added new Notes 5-7 Note 5 (New): added NFRM re: travel expenses, <i>USPS v. RPost Communication Ltd.</i> and <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Note 6 (New): added NFRM re: witness expenses and <i>USPS v. RPost Communication Ltd.</i> Note 7 (New): added NFRM re: travel expenses, <i>USPS v. RPost Communication Ltd.</i> and <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Renumbered remaining Notes
703.01(d)	Notes 1 and 4: added <i>USPS v. RPost Communication Ltd.</i>
703.01(e)	Last Par: added new fourth sentence re: oral cross exam of declarant or affiant in US must be noticed for reasonable time and place, and new Note 8 Note 8 (New): added <i>USPS v. RPost Communication Ltd.</i>

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TBMP Section:	Nature of Change:
703.01(h)	Note 6: added <i>USPS v. RPost Communication Ltd.</i>
703.01(i)	Notes 6 and 7: added subsequent history to <i>Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.</i>
703.01(m)	Note 3: added <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i>
703.01(p)	Par 2: added sentence clarifying possible waiver of claim of confidentiality and new Note 7 Note 2: added <i>RxD Media, LLC v. IP Application Development LLC, Kohler Co. v. Honda Giken Kogyo K.K., and Poly-America, L.P. v. Illinois Tool Works Inc.</i> Note 3: added subsequent history to <i>Pro Mark Brands Inc. v. GFA Brands, Inc.</i> Note 7 (New): added <i>Kohler Co. v. Honda Giken Kogyo K.K.</i> Renumbered remaining Notes
703.02(g)	Note 10: added <i>Moreno v. Pro Boxing Supplies, Inc.</i>
703.02(h)	Note 1: added <i>Moreno v. Pro Boxing Supplies, Inc.</i>
703.02(k)	Note 2: added <i>Moreno v. Pro Boxing Supplies, Inc.</i> , and added subsequent history to <i>Bayer Consumer Care AG v. Belmora LLC</i>
704.02	Notes 2 and 3: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> and <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i>
704.03(a)	Note 1: added <i>Poly-America, L.P. v. Illinois Tool Works Inc.</i> and subsequent history to <i>Productos Lacteos Tocumbo S.A. de C.V. v. Paleteria La Michoacana Inc.</i> Deleted <i>Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.</i> and <i>Rocket Trademarks Pty. Ltd. v. Phard S.p.A.</i> Clarified parenthetical for <i>Orange Bang, Inc. v. Ole Mexican Foods, Inc.</i>
704.03(b)(1)(A)	Note 4: added subsequent history to <i>Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.</i> Note 24: clarified parenthetical for <i>Action Temporary Services Inc. v. Labor Force Inc.</i> and added subsequent history to); <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i>
704.03(b)(1)(B)	Par 3: added new Note 3 Note 3 (New): added <i>Tao Licensing, LLC v. Bender Consulting Ltd.</i> Note 9 (formerly Note 8): added subsequent history to <i>Productos Lacteos Tocumbo S.A. de C.V. v. Paleteria La Michoacana Inc.</i> Renumbered remaining Notes
704.03(b)(2)	Note 3: added subsequent history to <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i>
704.05(a)	Note 1: added <i>Poly-America, L.P. v. Illinois Tool Works Inc.</i>
704.07	Note 5: updated subsequent history for <i>Southwestern Management, Inc. v. Ocinomled, Ltd.</i>
704.08(a)	Last par: added new last sentence “The submitting party must also ensure that such evidence is complete” and new Note 11 Note 3: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i>

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

TBMP Section:	Nature of Change:
	<p>Note 5: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> and <i>Luxco, Inc. v. Consejo Regulador del Tequila, A.C.</i></p> <p>Note 10: added <i>RxD Media, LLC v. IP Application Development LLC</i></p> <p>Note 11 (New): added <i>Luxco, Inc. v. Consejo Regulador del Tequila, A.C.</i></p>
704.08(b)	<p>Note 4: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> and <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i></p> <p>Note 5: added <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i></p>
704.09	<p>Notes 2 and 3: added <i>Azalea Health Innovations, Inc. v. Rural Health Care, Inc.</i></p> <p>Note 6: changed 37 CFR § 2.120(g) to 37 CFR § 2.122(g) to correct typo</p>
704.10	<p>Notes 1, 4 and 12: added <i>Bell's Brewery, Inc. v. Innovation Brewing</i></p>
704.11	<p>Added “and Privilege Logs” to title</p> <p>Par 3 sub (1): added “and the responding party will have time to prepare and serve its answers” to second sentence</p> <p>Par 3 sub (2) added “during the discovery period” to end of second sentence</p> <p>New last Par: added “A privilege log produced by a party during discovery cannot be introduced into evidence through a notice of reliance” and new Note 11</p> <p>Note 1: deleted <i>Mini Melts, Inc. v. Reckitt Benckiser LLC</i></p> <p>Note 2: added <i>Bell's Brewery, Inc. v. Innovation Brewing</i> and updated cite for <i>Primrose Retirement Communities, LLC v. Edward Rose Senior Living, LLC</i></p> <p>Note 3: added <i>Bell's Brewery, Inc. v. Innovation Brewing</i></p> <p>Note 4: added <i>Estudi Moline Dissey, S.L. v. BioUrn Inc.</i></p> <p>Note 9: added <i>Executive Coach Builders, Inc. v. SPV Coach Co.</i> and <i>Maids to Order of Ohio Inc. v. Maid-to-Order Inc.</i></p> <p>Note 11 (New): added <i>RxD Media, LLC v. IP Application Development LLC</i></p>
704.12(a)	<p>Note 2: added subsequent history to <i>Blackhorse v. Pro-Football, Inc.</i> and <i>Productos Lacteos Tocumbo S.A. de C.V. v. Paeteria La Michoacana Inc.</i></p>
705	<p>Notes 2 and 3: added subsequent history to <i>Blackhorse v. Pro-Football, Inc.</i></p> <p>Note 4: added subsequent history to <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i> and <i>Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.</i></p>
707.01	<p>Added new last paragraph re: Board’s discretion and new Note 4</p> <p>Note 3: added subsequent history to <i>Blackhorse v. Pro-Football, Inc.</i></p> <p>Note 4 (New): added <i>RxD Media, LLC v. IP Application Development LLC</i>, <i>Kohler Co. v. Honda Giken Kogyo K.K.</i>, <i>Poly-America, L.P. v. Illinois Tool Works Inc.</i>, <i>Luxco, Inc. v. Consejo Regulador del Tequila, A.C.</i>, <i>Inter IKEA Sys. B.V. v. Akea, LLC</i>, <i>Alcatraz Media Inc. v. Chesapeake Marine Tours Inc.</i>, <i>Kohler Co. v. Baldwin Hardware Corp.</i>, and <i>U.S. Playing Card Co. v. Harbro LLC</i></p>

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TBMP Section:	Nature of Change:
707.02(b)	Note 1: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> and <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i> Note 3: added <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i>
707.02(b)(2)	Note 1: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> and <i>Apollo Medical Extrusion Technologies, Inc. v. Medical Extrusion Technologies, Inc.</i> Note 3: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i>
707.03(b)(3)	Note 1: added subsequent history to <i>Bayer Consumer Care AG v. Belmora LLC</i> Note 6: added subsequent history to <i>Productos Lacteos Tocumbo S.A. de C.V. v. Paeteria La Michoacana Inc.</i>
707.03(c)	Par 9: added new third sentence re: objecting to declaration testimony and new Note 17 Note 9: added <i>Tao Licensing, LLC v. Bender Consulting Ltd.</i> Note 12: added subsequent history to <i>Productos Lacteos Tocumbo S.A. de C.V. v. Paeteria La Michoacana Inc.</i> Note 15: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Note 16: added <i>Tao Licensing, LLC v. Bender Consulting Ltd.</i> and <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Note 17 (New): added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Note 18 (formerly Note 17): added <i>Tao Licensing, LLC v. Bender Consulting Ltd.</i> and <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i> Renumbered remaining Notes
707.04	Notes 3, 4 and 5: added <i>Barclays Capital Inc. v. Tiger Lily Ventures Ltd.</i>
	CHAPTER 800
801.01	Par 2: Added “To allow readers to easily locate material in the record” to beginning of fourth sentence Note 3: Added <i>RxD Media, LLC v. IP Application Development LLC</i> and updated parenthetical for <i>Turdin v. Trilobite, Ltd.</i> to reflect current Board practice re: citing to TTABVUE Note 5: changed “opposer’s” to “petitioner’s” in parenthetical for <i>Alcatraz Media, Inc. v. Chesapeake Marine Tours, Inc.</i>
801.02(e)	Added new Par 4 and new Note 4 Note 4 (new): added <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i>
801.03	Par 8: added “When referring to the record in an inter partes proceeding before the Board,” before “parties” in the third sentence Note 11: added <i>RxD Media, LLC v. IP Application Development LLC</i> , and deleted parenthetical from <i>Turdin v. Trilobite, Ltd.</i>
802.01	Par 2: added new second sentence: “In the vast majority of cases, an oral hearing is not requested.” Added new Par 6 and Par 7
802.02	Added new last sentence to Par 2: “The Board will notify the parties by written order the date and time of the scheduled hearing.”

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TBMP Section:	Nature of Change:
802.03	Pars. 3-5: Updated to reflect current Board practice re: scheduling, rescheduling, and appearing at oral hearings
802.04	Note 1: changed “Board member signed” to “Board member’s name appeared on” in parenthetical, and deleted “Please Note: judges no longer provide a handwritten signature on decisions.”
803	Added Par 7 with new Note 3, and Par 8 with new Note 4 Note 3 (new): added <i>Azeka Bldg. Corp. v. Azeka</i> , and <i>American Paging Inc. v. American Mobilphone Inc.</i> Note 4 (new): added <i>Destileria Serralles, Inc. v. Kabushiki Kaisha Donq</i>
806	Par 1: deleted “electronic” from first sentence Par 2: added “or when any appeals filed have been finally determined” to parenthetical Minor updates to subparagraphs (1), (3)-(6), and (8) to reflect current Board practice
CHAPTER 900	
901.02(a)	Note 1: added <i>Copelands’ Enterprises Inc. v. CNV Inc.</i> and <i>Prospector Capital Partners, Inc. v. DTTM Operations LLC</i> ; added parenthetical to <i>Gal v. Israel Military Industries of the Ministry of Defense of the State of Israel</i> Note 2: added <i>Prospector Capital Partners, Inc. v. DTTM Operations LLC</i>
904.01	Par 1: Deleted first sentence. Added new first sentence and deleted “the original” from “the original or certified copies of the record” from second sentence Par 2: Deleted first sentence. Added new first sentence. Par 3: Changed “Non confidential papers” to “Non-confidential submissions”
904.02	Par 1: Deleted first sentence. Added new first sentence and changed beginning of second sentence from “The Board will release the original record for submission” to “To the extent a certified copy is required, it will be transmitted” Par 3: Changed “Non confidential papers” to “Non-confidential submissions”
905	Par 4: Changed “papers” to “materials” in third sentence
906.01	Par 6: added text and references to new Notes 24 and 25 Par 8: added “and whether it was proper for the Board to consider certain types of evidence” to first sentence Par 9: changed “Lanham Act” to “Trademark Act” Note 16: added <i>In re i.am.symbolic, LLC</i> and <i>In re N.C. Lottery</i> , and added subsequent history to <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i> Note 19: added <i>In re TriVita, Inc.</i> Note 21: added <i>In re Louisiana Fish Fry Prods., Ltd.</i> , and added subsequent history to <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i> Note 24 (New): added <i>Earnhardt v. Kerry Earnhardt, Inc.</i> Note 25 (New): added <i>Lyons v. American College of Veterinary Sports Medicine & Rehabilitation</i>

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TBMP Section:	Nature of Change:
	<p>Note 26 (formerly Note 24): added <i>In re N.C. Lottery</i>, <i>In re i.am.symbolic, LLC</i>, and <i>Lyons v. American College of Veterinary Sports Medicine & Rehabilitation</i>, and added subsequent history to <i>Frito-Lay North America, Inc. v. Princeton Vanguard, LLC</i></p> <p>Note 27 (formerly Note 25): added <i>In re N.C. Lottery</i></p> <p>Note 28 (formerly Note 26): added <i>In re i.am.symbolic, LLC</i></p> <p>Note 31 (New): added <i>MaxLinear, Inc. v. CF Crespe LLC</i> and <i>Cesari S.r.L. v. Peju Province Winery L.P.</i></p> <p>Renumbered Notes following new Note 24</p>
	CHAPTER 1000
	Minor update per “Throughout Manual”
	CHAPTER 1100
1101.01	<p>Note 5, added “(“Section 1063 does not provide for concurrent use registrations, an omission that must be seen as a deliberate choice made by Congress.”). <i>See also</i> Trademark Act § 2(f), <u>15 U.S.C. § 1052(f)</u> (“A mark which would be likely to cause dilution by blurring or dilution by tarnishment under section 43(c), may be refused registration only pursuant to a proceeding brought under section 13.”).”</p>
1101.02	<p>Note 3, added “(“Registrations are territorially restricted pursuant to concurrent use or court proceedings in which territorial rights are judicially determined; a registrant may not make this determination itself or request it in the same way that a registration is restricted as to goods.”).”</p> <p>Note 4, added “named as a concurrent user”</p>
1102.01	<p>Note 1, after “see also,” added “ <i>In re Forbo</i>, 4 USPQ2d 1415, 1416 (Comm’r 1984) (registrant may not request geographic restriction by amendment under Trademark Act § 7(d));”</p>
1102.02	<p>Note 1, deleted “ <i>In re Forbo</i>, 4 USPQ2d 1415, 1416 (Comm’r 1984)”</p> <p>Note 2, added “ <i>Cf. In re Forbo</i>, 4 USPQ2d 1415, 1416 (Comm’r 1984) (registrant may not request geographic restriction by amendment under Trademark Act § 7(d)).”</p> <p>New Note 5, “ <i>See 37 CFR § 2.42.</i>”</p>
1103.01	<p>Clarified obligations of concurrent use applicants pursuant to 37 CFR § 2.42.</p> <p>New Note 6, “ <i>See 37 § CFR 2.99(c).</i>”</p> <p>Note 7, deleted “ <i>Cf. 37 CFR § 2.99(c).</i>”</p>
1103.01(a)	<p>Last paragraph, added “In a § 66(a) application, the applicant may not claim more than one basis. [Note 8].”</p> <p>Note 5, changed title of rules changes to small caps.</p> <p>New Note 8, “<u>37 C.F.R. §2.34(b)</u>. <i>See also TMEP § 806.02(a).</i>”</p>
1103.01(b)	Note 2, changed “begin” to “have begun”
1103.01(d)(2)	<p>Note 1, added parenthetical to <i>Beatrice Foods</i>, “(concurrent use jurisdictional requirements met)” and added parenthetical to <i>Datanational Corp.</i>, “(concurrent use application for mark that is generic in concurrent use applicant’s unclaimed territory fails to meet jurisdictional requirements even if mark is associated with applicant in its claimed territory)”.</p>

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TBMP Section:	Nature of Change:
1103.01(f)	Note 1, changed title of rules changes to small caps.
1103.03	Corrected proper statement to include in concurrent use application based on court decree to include a period after “comprising _____.” Last sentence, changed “there is likelihood of confusion” to “there may be a likelihood of confusion” Note 3, added “(applicant entitled to concurrent use application provided it contains conditions and limitations corresponding to those contained in the prior court judgment).”
1104	In last paragraph, changed “to the extent that their rights are limited” to “to the extent that their registration rights may be limited” Note 6, in parenthetical to <i>Georgia-Southern Oil</i> , changed “despite parties’ treatment of third party’s application” to “despite parties’ treatment of unrelated party’s application” and changed “unrestricted registration to user” to “unrestricted registration to third-party applicant.”
1105	Third paragraph, changed “affected” to “effected.”
1106.04	Fourth paragraph, made “date” plural. Last paragraph, added “If there is more than one named excepted user, and none of them owns a trademark application or registration, the trial schedule is issued after all answers are filed, but the concurrent use proceeding commences when the Board sends the notices to the parties. [Note 11.]” Notes 6, 7 and 9, changed title of rules changes to small caps. New Note 11, “ <i>See 37 CFR § 2.99(c).</i> ”
1106.05	First paragraph, changed “filed of the excepted user’ to “filed by the excepted user” Second paragraph, inserted “seek” in penultimate sentence. Third paragraph, changed “registrant has abandoned use of its mark with no intent to resume use” to “registrant has discontinued use of its mark with no intent to resume use and thereby has abandoned the mark”
1107	First paragraph, added “Where there is more than one named excepted user, and none of them owns a trademark application or registration, the trial schedule is issued after all answers are filed; if any defending common law user fails to file an answer, judgment will be entered against that user as a defaulting user. <i>See TBMP § 1107.</i> ” Fifth paragraph, changed “each concurrent use applicant still will have the burden” to “each concurrent use applicant bears the burden” Last paragraph, changed “defaulting user” to “defaulting user(s)”
1108	First paragraph, inserted “registration” between “extent that their” and “rights may be limited” Sixth paragraph, added that ex parte showing may be made by declaration in addition to affidavit, and removed references to inter partes proceedings, and changed “looks at” to “considers”
1109	First paragraph, deleted reference to procedures in inter partes proceedings and added “(such as by submission of declaration or affidavit evidence)” and reference to TBMP § 1108. Second paragraph, deleted “available only in such proceedings.” New Note 1, “ <i>See 37 CFR § 2.128(a)(2).</i> ”

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

TBMP Section:	Nature of Change:
1109.01	Deleted duplicate second paragraph.
1112	Note 1, added parenthetical to <i>Home Federal S&L</i> , “(following entry of judgment against applicant for unrestricted registration, applicant may seek registration on a concurrent use basis with all others entitled to use the same term in different geographical areas)”
1113.01	Changed “action” to “order” in last sentence. Note 2, changed “institute concurrent use granted; party named” to “institute concurrent use proceeding granted where party named”
1113.02	Note 1, changed <i>See</i> signal for <i>Chichi’s</i> to “ <i>Cf.</i> ” and added to the parenthetical the following, “cancellation proceeding not terminated in favor of a concurrent use proceeding, but”
1114	Second paragraph, changed “wishes to alter the restriction” to ‘wishes to alter a concurrent use restriction”
	CHAPTER 1200
1201.01	Last Par: added cross-reference to TBMP § 1201.02
1201.05	Last Par: added second sentence re: petition may provide an applicant with more flexibility than an appeal to the Board when issue is acceptable ID and new Note 15 Note 13: added subsequent history for <i>In re Driven Innovations, Inc.</i> Note 15 (New): added <i>In re Faucher Industries Inc.</i>
1203.01	Par 1: added “including that the brief be double spaced” to end of sentence Par 3: added new fourth sentence re: citing to TSDR record in .pdf format and new Note 7 Par 5: added “content of the” before brief and deleted “within the body of the brief” in the first sentence, and added “or the Board might not consider them” to end of second sentence Note 1: added <i>In re University of Miami</i> Note 7 (New): added <i>In re United Trademark Holdings, Inc.</i> Note 12 (formerly Note 11): added <i>In re Hollywood Lawyers Online</i> Renumbered Notes following new Note 7
1203.02(a)	Par 1: added “and the reason for the delay” to end of last sentence Par 5: added “also” to first clause of first sentence
1203.02(b)	Par 2: added “and Board” to second sentence
1203.02(c)	Par 3: added “and Board” to second sentence Par 4: added to end of paragraph: “Unless instructed or ordered by the Board, supplemental briefs filed after an oral hearing will not be considered” and new Note 5, and cross-reference to TBMP § 1216 Note 5 (New): added <i>In re Well Living Lab Inc.</i>
1203.02(d)	Par 1: added “and the reason(s) for the requested extension(s)” to end of second sentence
1203.02(e)	Note 2: added <i>In re Minerva Associates, Inc.</i>
1204	Par 1: added “also” to last clause of last sentence Par 2: added “separately” to fourth sentence Par 3: added “As with a request for reconsideration” to beginning of last sentence

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TBMP Section:	Nature of Change:
	<p>Par 5: added “automatically” to second sentence and “on paper” to fourth sentence Par 6: added new Note 9 after last sentence Note 9 (New): added <i>In re Faucher Industries Inc.</i> Renumbered remaining Notes</p>
1205.01	<p>Par 5: added “and the Board” to second sentence Note 1: deleted <i>In re Eximius Coffee, LLC</i></p>
1206.01	<p>Par 5: added “and the Board” to end of second sentence</p>
1207.03	<p>Note 1: added <i>In re Olin Corp.</i></p>
1208	<p>Par 2: changed “the Board is somewhat more lenient” to “the Board may be somewhat more lenient” in first sentence Note 3: added <i>In re General Mills IP Holdings II, LLC</i> and <i>In re Country Music Association Inc.</i> Note 6: added <i>In re Pitney Bowes, Inc.</i>, <i>In re Teledyne Industries Inc.</i>, <i>In re Change Wind Corp.</i>, and <i>In re U.S. Tsubaki, Inc.</i> Note 9: deleted <i>In re Mavety Media Group L td.</i></p>
1208.01	<p>Par 2: added “and applicants” to second sentence Note 7: added <i>In re Max Capital Group Ltd.</i></p>
1208.02	<p>Par 2: added new third sentence: “This practice also applies to registrations owned by the applicant or registrant that are not the subject of the appeal” and new Note 4 Par 3: clarified second sentence re: how to make a third-party registration of record Note 4 (New): added <i>In re Olin Corp.</i> Note 8 (formerly Note 7): added <i>In re Olin Corp.</i> Renumbered Notes following new Note 4</p>
1208.03	<p>Added “Social Media and Multimedia Materials” to title Par 1: changed beginning of second sentence from “It is preferable that it be identified” to “It should be identified.” Added “and whether the website is in English (or has an optional English language version” and new Note 5 to end of seventh sentence, and added new eighth (last) sentence re: US consumers more likely to encounter foreign websites depending on particular goods or services and new Note 6 Par 2: added three new sentences to end of paragraph and new Notes 10-12 Par 3: deleted last sentence Note 1: added <i>In re Olin Corp.</i>, <i>In re Change Wind Corp.</i>, and <i>In re Powermat Inc.</i> Note 4: added <i>In re Bayer Aktiengesellschaft</i> Note 5 (New): added <i>In re Well Living Lab Inc.</i> Note 6 (New): added <i>In re Well Living Lab Inc.</i> Notes 13 and 14 (New): added <i>In re Change Wind Corp.</i> Note 19 (formerly Note 15): deleted first clause in parenthetical Note 21 (New): added <i>In re General Mills IP Holdings II, LLC</i> Renumbered former Notes 5-10 to current Notes 7-12, former Notes 11-16 to current Notes 15-20, and former Notes 17-18 to current Notes 22-23</p>

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TBMP Section:	Nature of Change:
1208.04	<p>Par 4: changed “may not” to “normally does not” at beginning of first sentence, and added “such as a dictionary definition reflecting ‘British English’” to the end of that sentence. Also added new second sentence re: Board’s discretion to take judicial notice of certain information originating outside the US and new Note 8</p> <p>Note 3: added <i>In re Weiss Watch Co.</i></p> <p>Note 8 (New): added <i>In re Bayer Aktiengesellschaft</i></p> <p>Renumbered remaining Notes</p>
1208.05	<p>Par 1: divided former first sentence by adding period and new Note 1 after “may be considered” in what is now the entire first sentence, and adding “This is the case” to beginning of what is now the new second sentence</p> <p>Note 1 (New): added <i>In re N.C. Lottery</i>, <i>In re Emergency Alert Sols. Group, LLC</i> and <i>In re Weiss Watch Co.</i></p> <p>Renumbered remaining Notes</p>
1209.01	<p>Par 1: changed second sentence from “Thus, the Board will not remand” to “However, the Board normally will not remand” and added new Note 2</p> <p>Note 2 (New): added <i>In re Bed & Bars Ltd.</i></p> <p>Renumbered remaining Notes</p>
1210	<p>Par 2: added “and the Board”</p>
1212	<p>Par 3: clarified former last two sentences to now read “The applicant should immediately notify the Board if the applicant learns that the registration has expired or been cancelled, or if the registration is assigned to the applicant.”</p>
1213	<p>Par 2: added “and the Board” to third sentence</p> <p>Par 5: added “by either the applicant or the examining attorney” to beginning of first sentence</p> <p>Par 8: slight edits to clarify example in second and former third sentences</p>
1215	<p>Note 1: added <i>In re Beds & Bars Ltd.</i> and deleted <i>In re Eximius Coffee, LLC</i></p> <p>Note 2: added <i>In re Olin Corp.</i></p>
1216	<p>Par 2: added new third sentence re: oral hearing generally not requested</p> <p>Par 3: updated fifth and sixth sentences to reflect current Board procedure</p> <p>Par 4: added three new sentences to the end of the paragraph to replace former last sentence re: procedure for applicant to participate in an oral hearing by video conference</p> <p>Par 5: revised to reflect current Board practice re: rescheduling an oral hearing</p> <p>Par 9: added new last sentence and new Note 11</p> <p>Par 10: new paragraph re: procedure to cancel/waive an oral hearing</p> <p>Last Par: added contact information for further inquiries</p> <p>Note 11(New): added <i>In re Well Living Lab Inc.</i></p>