

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP)

June 2021

United States Patent and Trademark Office

PREFACE TO THE JUNE 2021 REVISION

The June 2021 revision is an update of the June 2020 edition. Primarily, this update incorporates relevant case law issued between March 1, 2020 and February 28, 2021. In addition, the update includes requirements for new fees in connection with briefs and oral hearings as well as the change in nomenclature from “standing” to file an opposition or cancellation under the Trademark Act to “entitlement to a statutory cause of action.”

The title of the manual is abbreviated as “TBMP.” A citation to a section of the manual may be written as “TBMP § ____ (2021).”

As with previous editions, this edition is available online at the TTAB home page of the USPTO web site in a searchable, printable format as well as in pdf. Archived editions of the TBMP are also available at the TTAB's home page.

Several TTAB judges, attorneys, paralegals, and professional staff contributed to this year's annual update. Their efforts in ensuring an accurate and timely update are very appreciated. Special thanks are extended to Judge Angela Lykos who took the lead in supervising the work while the TBMP Editor was temporarily assigned to the Office of the Under Secretary and Director.

Cheryl Butler

Senior Counsel and TBMP Editor

Trademark Trial and Appeal Board

INTRODUCTION

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The primary purpose of this manual is to provide stakeholders with basic information generally useful for litigating trial cases before the Trademark Trial and Appeal Board. The manual does not modify, amend, or serve as a substitute for any existing statutes, rules, or decisional law and is not binding upon the Board, its reviewing tribunals, the Director, or the USPTO. *Cf., In re Wine Society of America Inc.*, 12 USPQ2d 1139 (TTAB 1989). Rather, the manual describes current practice and procedure under the applicable authority and incorporates amendments to the Trademark Rules of Practice, Trademark Act and Federal Rules, and updates in case law, where applicable, as of February 28, 2021. This manual contains links to a USPTO-created compilation of the Trademark Rules of Practice, Trademark Act and Federal Rules that was created for the public's convenience and is not meant to serve as an official legal source. Those using that compilation for legal research should verify their results against the most current official printed editions of the Code of Federal Regulations and United States Code, published Public Laws, and the daily Federal Register, as applicable. The guidelines set forth in the manual do not have the force and effect of law. They have been developed as a matter of internal office management and are not intended to create any right or benefit, substantive or procedural, enforceable by any party against the office.

The manual is devoted primarily to opposition and cancellation proceedings, the two most common types of inter partes proceedings before the Board. Nonetheless, the manual includes a chapter of general information useful for all proceedings and chapters on interference proceedings, concurrent use proceedings, and ex parte appeals to the Board. Updates this year reflect changes in practice as a result of requirements for new fees in connection with appeal briefs and oral hearings and nomenclature. Notably, standing to file an opposition or cancellation under the Trademark Act is now termed "entitlement to a statutory cause of action."

The manual is updated periodically.

The manual is intended for use by all members of the public, including those seeking general information about Board proceedings, those involved in a Board proceeding, and those not represented by legal counsel, as well as by attorneys and legal professionals. In acknowledgement of the wide breath of users, only the most commonly recognized abbreviations are used in case names (e.g., "Co.," "Corp.," "Ltd.") to enhance searching within the manual and to enhance readability. For users who wish to insert case names into a document requiring use of a specific form of citation, please note that case names may need to be modified.

The Board welcomes suggestions for improving the content of the manual. Suggestions and comments should be addressed as follows:

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