

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP)

January 2017

United States Patent and Trademark Office

PREFACE TO THE JANUARY 2017 REVISION

This January 2017 revision incorporates amendments to the Trademark Rules of Practice. In particular, this revision incorporates the Miscellaneous Changes to the Trademark Trial and Appeal Board Rules of Practice, published as a final rule on Friday, October 7, 2016, 81 Fed. Reg. 69950, as corrected on December 12, 2016, 81 Fed. Reg. 89382; and the Trademark Fee Adjustment, published as a final rule on October 21, 2016, 81 Fed. Reg. 72694, as corrected on November 7, 2016, 81 Fed. Reg. 78042. The amended Trademark Rules of Practice are effective January 14, 2017. Amendments to the Trademark Act and the Federal Rules, where applicable, are also incorporated. This revision updates references to Board, Federal Circuit and other federal court cases issued between March 5 and September 30, 2016.

The title of the manual is abbreviated as “TBMP.” A citation to a section of the manual may be written as “TBMP § ____ (Jan. 2017).”

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. A link to archived editions of the TBMP is also available at the TTAB's home page.

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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 September 30, 2016. 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.

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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ATTENTION: TBMP editor