

**TRADEMARK TRIAL
AND
APPEAL BOARD
MANUAL OF
PROCEDURE
(TBMP)**

Third Edition
Revision 2
June 2013

United States Patent and Trademark Office

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PREFACE TO REVISION 2 OF THE THIRD EDITION

In May 2011, the third edition of the Trademark Board Manual of Procedure ("TBMP") was published. It incorporated significant changes in practice before the Trademark Trial and Appeal Board ("Board") since the previous revision to the second edition was released in 2004 and added references to precedential cases that had issued through November 15, 2010.

The first revision to the 2011 third edition of the TBMP issued in June 2012 and included practice updates occurring between November 15, 2010 and March 2, 2012. This second revision incorporates amendments to the Trademark Act, the Trademark Rules of Practice, and the Federal Rules, where applicable, and further updates references to Board, Federal Circuit and other federal court cases. The amendments to the USPTO's Rules of Professional Conduct, which became effective on May 3, 2013, are incorporated into this revision. Otherwise, content additions and revisions reflect the evolution and refinement of Board practice as experienced and articulated between March 3, 2012 and March 1, 2013. Pinpoint cites are now provided, if appropriate, for cases brought forward from earlier editions of the TBMP. In addition, introductory signals and the order of citations were made consistent throughout the manual. Special thanks to the USPTO's Solicitor's Office for its assistance in contributing to a more uniform style to this TBMP revision.

The title of the manual is abbreviated as "TBMP." A citation to a section of the manual may be written as "TBMP § ____ (3d ed. rev.2 2013)" (e.g. "TBMP § 110.01 (3d. ed. rev.2 2013)") or, more simply, as "TBMP § ____ (2013)" (e.g. "TBMP § 110.01 (2013)").

As with previous editions, this edition is available online at the Board home page of the USPTO web site in a searchable format, which facilitates searching of its contents by users. A link to archived editions of the TBMP is also available at the Board's home page.

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Trademark Trial and Appeal Board

INTRODUCTION

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 March 1, 2013. 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 will be updated periodically.

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

TBMPcomments@uspto.gov, or

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