

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

Third Edition  
May 2011

**United States Patent and Trademark Office**

**United States Patent and Trademark Office**  
**PREFACE TO THE THIRD EDITION**

**The second edition of the Trademark Manual of Board Procedure (“TBMP”) last was revised in 2004. Since then, practice before the Trademark Trial and Appeal Board (“Board”) has significantly changed. This third edition of the TBMP incorporates these many and varied changes in a revised format.**

**Perhaps the most significant practice development captured in this third edition of the manual is the Board’s adoption of a modified disclosure and conferencing regime for inter partes proceedings commenced on or after November 1, 2007. In an effort to align Board practice more closely with the federal court practice familiar to many who litigate before the Board, all parties to opposition, cancellation and concurrent use proceedings are now obliged to conduct a discovery conference to discuss settlement, narrowing of claims and defenses, and plans for disclosure and discovery. In addition, parties must now make initial, expert testimony, and pretrial disclosures. Revisions reflecting the adoption of the Board’s disclosure and conferencing regime are found throughout this edition, and discussed extensively in Chapters 400 and 700.**

**Next, this edition of the TBMP highlights the Board’s emphasis on Accelerated Case Resolution (“ACR”), an alternative method of dispute resolution designed to provide parties with a more efficient and less costly method of obtaining a decision on the merits, thus holding the potential for savings in party resources. A detailed discussion of ACR and ACR-type trial efficiencies can be found in Chapters 500 and 700. Where relevant, ACR is also mentioned in other chapters or sections of the TBMP.**

**Lastly, this updated edition of the TBMP reflects the shift in Board practice from paper to electronic filing and record keeping, and the predominant use of the Board’s electronic filing system (“ESTTA”) and electronic case file system (“TTABVUE”) by practitioners, both of which are accessible at the Board’s web page. Chapter 100 now includes a detailed explanation of ESTTA, and tips for practitioners regarding the use of ESTTA are found throughout the manual.**

**These are only a few of the developments in Board practice reflected in this latest edition. In addition to many others, practitioners will also find more detailed explanations regarding Madrid Protocol applications in Chapters 200 and 600 as well as concurrent use proceedings (Chapter 1100) and ex parte proceedings (Chapter 1200).**

**This third edition incorporates all statutory changes, as well as changes to the Trademark Rules of Practice and Federal Rules where applicable as of November 15, 2010. Updated Board and Federal Circuit case citations have been added as**

well, to reflect the burgeoning list of precedential orders and decisions issued by the Board since 2006, which now includes close to 300 entries.

In terms of formatting, this edition of the TBMP eliminates the use of footnotes, opting instead for notes at the end of each section or subsection to facilitate ready reference to the associated text. All cross references to the TBMP are now included in the text. For practical ease, the updated version also eliminates the use of “supra” to refer to a previously cited case or authority. All citations to older “TIPS” articles published in the Trademark Reporter have been removed. Practitioners interested in references to these articles may view the second edition of the TBMP, which remains available at the Board home page of the USPTO web site.

In keeping with the Board’s commitment to innovations in electronic government, this edition is available online at the Board home page of the USPTO web site in a searchable format. This edition of the TBMP will facilitate searching of its contents by readers and more frequent and easier updating of the manual by the Board. Given the Board’s continuing commitment to issue a significant number of precedential orders and decisions, and the evolving nature of Board practice, the Board intends to update the TBMP on a frequent basis.

The many Board judges and attorneys who contributed to the thorough updating of the TBMP are deserving of thanks from the Office and user groups who will benefit from this resource. In particular, thanks are extended to Administrative Trademark Judge Carlisle Walters, who developed an initial framework for the revision project, and most of all to Administrative Trademark Judge Angela Lykos, who has labored tirelessly for many months to supervise the work of the participating judges and attorneys. All users of the manual will be well-served by the attention to detail exercised by Judge Lykos.

*Gerard Rogers*  
*Chief Administrative Trademark Judge*  
*Trademark Trial and Appeal Board*

## INTRODUCTION

The purpose of this manual is to provide practitioners with basic information generally useful for litigating 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, where applicable, as of November 15, 2010. 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](mailto:TBMPcomments@uspto.gov), or

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
ATTENTION: TBMP editor

The title of the manual is abbreviated as "TBMP". A citation to a section of the manual may be written as "TBMP § \_\_\_\_\_" (e.g. "TBMP § 110.01," "TBMP § 113.06," etc.).