



[Billing Code 3510-16-P]

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO-P-2018-0050]

Office Patent Trial Practice Guide, August 2018 Update

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (“Office”) issued an update to the Office Patent Trial Practice Guide (“TPG”) in August 2018 to provide updated guidance to the public on standard practices before the Patent Trial and Appeal Board (“Board”) in the post-grant trial procedures implemented following the Leahy-Smith America Invents Act (“AIA”). The Office publishes the TPG to provide practitioners with guidance on typical procedures and times for taking action in AIA trials, as well as to ensure consistency of procedure among panels of the Board.

FOR FURTHER INFORMATION CONTACT: Michael Tierney and William Fink, Vice Chief Administrative Patent Judges, by telephone at (571) 272-9797.

SUPPLEMENTARY INFORMATION: The Office issued an update to the TPG in August 2018, to update the guidance set forth in the TPG by incorporating the Board’s current practices and provide further explanation of certain aspects of the Board’s practices to the public. The TPG is divided into sections, each directed to a particular stage of a typical AIA trial proceeding or a specific issue commonly encountered during such proceedings. As such, the TPG contains informative material and outlines the current procedures that panels of the Board typically follow in appropriate cases in the normal course of an AIA trial proceeding. In order to expedite these updates and provide guidance to the public as quickly as possible, the Office has chosen to issue updates to the Practice Guide on a section-by-section, rolling basis, rather than a single, omnibus update addressing all aspects of the current Practice Guide. The Office anticipates releasing further revisions to the remaining sections of the TPG on a periodic basis, to take into account feedback received from stakeholders, changes in controlling precedent or applicable regulations, or the further refinement of the Board’s practices over time.

The August 2018 update revises Sections I.G. (Expert Testimony), II.A.3. (Word Count and Page Limits), II.D.2. (Considerations in Instituting a Review), II.I. (Reply to Patent Owner Response and Reply for a Motion to Amend; Sur-Replies), II.K. (Challenging Admissibility; Motions to Exclude; Motions to Strike), II.M. (Oral Hearing), and Appendix A (Sample Scheduling Order).

The August 2018 update of the TPG, containing only the revised sections, may be viewed or downloaded free of charge from the USPTO Web site at <https://go.usa.gov/xU7GP>.

The full version of the August 2012 TPG continues to be available for reference on the USPTO Web site at <https://go.usa.gov/xU7GK>.

Dated: August 8, 2018.

Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office
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