



Patent & Trademark Office Proceedings

Not all disputes are decided by courts. Both the U.S. Patent Office and the Trademark Office have their own formal “trials.” So do their foreign counterparts. So do many states. Each with its own rules and requirements

It can all be extremely confusing. One false move and your case could be blown.

Make sure that doesn’t happen. Add an experienced patent advocate to your team.

We handle cases before the patent trial and appeal board.

Want a little taste of “patentesque?” Try this: The Patent Trial and Appeal Board (PTAB) “conducts trials, including inter partes, post-grant, and covered business method patent reviews and derivation proceedings, hears appeals from adverse examiner decisions in patent applications and reexamination proceedings, and renders decisions in interferences.”

What in the world does that mean?

In plain English, it means the Patent Trial and Appeal Board is where you can go if you think a patent examiner goofed – or was just stubborn – and rejected a claim that should have been allowed. Or you discover someone else has applied to register an invention that you think is rightly yours. Or you want to challenge the validity of an already-issued patent and would rather have a patent expert hear your case than a general-purpose judge. You also can ask the PTAB – if you’re fast enough – to expand the scope of a patent you’ve already obtained, so that it covers more than you originally requested.

As you can see, understanding what the PTAB is and how it works is no easy task.

Even more daunting is what a PTAB proceeding can cost. You might assume that staying out of court is always cheaper or faster. Not necessarily. Some PTAB actions have hefty filing fees—well into five-digit figures (i.e. more than \$10,000 just to file, and sometimes even higher fees to follow). That's especially true for Inter Partes Review (IPR), Post Grant Review (PGR) and Covered Business Method (CBM) proceedings.

As for time considerations, it may take the Patent Office quite a while even to decide whether your case has been properly filed. If your filing is rejected, you may not get your fees back. And if you lose and want to appeal to federal court, you enter another level of cost and complexity.

That's why you want experienced patent counsel on your side – to help you decide where to go, and to fight for you when you get there.

We have handled hundreds and hundreds of trademark trials and appeals.

The Trademark Trial and Appeal Board (TTAB) hears cases in various circumstances, such as:

- An examiner rejects your trademark application.
- Someone else applies for a federal trademark registration that could limit or harm your own rights.
- You learn of an already-issued federal registration that endangers your existing marks and expansion plans.

Olive & Olive regularly appears before the TTAB. We've handled many hundreds of cases before the board.

We know how the process works. And we know how to make it work for our clients.

We represent clients who hold a single trademark, and we also represent major trademark holders whose marks are often infringed. We leverage our experience and insider knowledge to get maximum results:

- One of our wins (against Electronic Data Systems) was widely reported in numerous articles in the US and overseas.
- Another victory (against Haggar Clothing Company) is among the most-cited TTAB opinions.

Why not just go to court?

Sometimes, there's no choice. If you file a patent or trademark application that is rejected, your first recourse almost always must be an administrative appeal.

Other times, you do have a choice. For example, a challenge to the validity of a federally issued patent, copyright or trademark registration can either be brought in the issuing office or a trial court.

Administrative proceedings are usually less expensive than lawsuits, and the parties usually have more control over the pace and flow of the case.

The most important thing is to have good counsel to help you make the right choice, for the right reasons. An experienced advocate can mean the difference between success and failure.

Olive & Olive can't promise we'll win every case. But we promise we'll be strong, dedicated and passionate – and we'll stick with you every step of the way.

Want to improve the odds of success in your IP case? Our team of patent and trademark attorneys have nearly 60 years of experience. We represent clients before the PTAB, the TTAB and the Court of Appeals for the Federal Circuit. Call Olive & Olive today.