

James Hastings at Strafford CLE Webinar on Evidentiary Issues at the TTAB

Speaking Engagement
8.30.22

Partner James Hastings will be a co-presenter on a Strafford webinar taking place on Tuesday, August 30, 2022, at 1 pm ET. The webinar, titled "Evidentiary Issues at the TTAB: Examination Guides, Generic Marks, Third-Party Registrations, Consumer Surveys," will be a live 90-minute CLE video webinar followed by an interactive Q&A session.

This CLE course will guide trademark counsel on evidentiary issues at the Trademark Trial and Appeal Board (TTAB). The panel will discuss the Examination Guides, particularly as they address generic marks, evidentiary issues related to third-party registrations, and consumer surveys. The panel will discuss the scope and timing of discovery, and will also examine recent court treatment and offer best practices for navigating evidentiary issues at the TTAB.

Description

In 2020, the USPTO updated the Trademark Manual of Examining Procedure by issuing three Examination Guides that provide insights on the USPTO's approach to various evidentiary issues. Among other topics, that guidance addresses the issue of so-called generic.com marks following the Supreme Court's decision in *Booking.com* and how trademark applicants can establish acquired distinctiveness, including through the use of consumer surveys. That issuance of the examination guidelines follows the Trademark Trial and Appeal Board's 2017 rules package, which the Board has now had the opportunity to clarify through case law.

Listen as the panel of IP attorneys examines evidentiary issues associated with the prosecution of applications and with *ex parte* and *inter partes* litigation before the TTAB. The panel will discuss the new Examination Guides, particularly as they address claimed generic.com marks, evidentiary issues related to third-party registrations, and consumer surveys. It also will address the scope and timing of discovery and potential issues associated with:

Key Contact

James R. Hastings

Related Areas of Practice

Trademark Oppositions and
Cancellations

- the proper role of notices of reliance;
- cross-examination of witnesses testifying by declaration;
- the admissibility and significance of Wayback Machine search results; and
- the introduction of website captures.

Takeaways will include the best practices counsel should employ when submitting or challenging evidence and testimony, as well as lessons learned from recent case law.

To learn more about the CLE webinar, and to register, please visit the [Strafford event page](#).