

2025-2026 Highlights

- Added discussion of *In re Post Foods, LLC*, in which the TTAB upheld a refusal to register Kellogg's proposed color mark for breakfast cereals, finding the mark was not inherently distinctive and lacked acquired distinctiveness. *See* § 5:3.
- Added clarification that at the pleading stage, a trade dress owner need only articulate the trade dress in the complaint, with distinctiveness to be established later in the litigation proceedings. *See* § 6:1.
- Added discussion of *Universal Life Church Monastery Storehouse v. American Marriage Ministries*, wherein the Federal Circuit reversed the TTAB for relying upon arguments not properly advanced by the opposing party. *See* § 7:10.
- Added discussion of *In re PT Medisafe Tech.*, wherein the Federal Circuit addressed genericness as it relates to trade dress and denied trade dress registration to green colored surgical gloves. *See* § 8:5.
- Added discussion of 2025 Federal Circuit precedential decision in *Universal Life Church Monastery Storehouse v. Rapunzel Trademark Holdings*, holding that members of the public must have statutory standing to oppose an application or seek cancellation of an active registration. *See* § 19:4.
- Updated Trademark Manual of Examining Procedure (T.M.E.P.) section related to trade dress. *See* § 36.