

In The News

Peter A. Chiabotti and Samuel T. Kilb Offer Practitioners a Road Map for Navigating TTAB Reexamination Proceedings in *Law360*

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Akerman Intellectual Property Practice Group Partner [Peter A. Chiabotti](#) and Special Counsel [Samuel T. Kilb](#) contributed “TTAB’s Everwise Decision Highlights Token-Use Pitfalls” to *Law360*, analyzing the Trademark Trial and Appeal Board’s precedential ruling in *In re: Everwise Credit Union* and its practical implications for trademark practitioners on both sides of reexamination proceedings.

Peter and Samuel explain that the board canceled the registrant’s trademark registration after finding that the single sample it submitted to demonstrate real-world use of the mark was not enough to establish genuine commercial use — a significant finding under the Trademark Modernization Act of 2020.

Drawing on the board’s detailed analysis, Peter and Samuel distill five practical lessons that speak directly to how practitioners prosecute and defend against reexamination challenges. They stress that strong petitions are built on independently verifiable, date-specific evidence, while successful defenses require more than a single sample: registrants must demonstrate how the mark appears consistently across multiple customer touchpoints.

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Peter and Samuel also address token-use red flags and procedural pitfalls that can erode credibility before the board, closing with a pointed strategic lesson: when a registrant cannot demonstrate genuine use of the mark in commerce by a nonextendable statement of use deadline, filing a new intent-to-use application is far preferable to submitting a premature statement of use — a mistake the *Everwise* decision makes clear is far harder to undo than to avoid.

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