

TMEP § 818 – A Valuable Resource for Trademark Practitioners
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Trademark Manual of Examining Procedure (“TMEP”) § 818 entitled “Application Checklist” is a valuable resource for understanding some of the most important code sections in United States trademark law relating to trademark applications. Two primary trademark code sections of the Lanham Act governing trademark applications are 15 USC § 1051, known simply to trademark practitioners as “Section 1” and 15 USC § 1052, known simply as “Section 2.” In order to help trademark practitioners apply the complicated concepts, teachings and responses to rejections referenced in trademark code sections, such as Sections 1 and 2, TMEP § 818 summarizes and simplifies various trademark application concepts.

TMEP § 818 has three essential purposes: (1) to identify various detailed complete trademark application requirements in an initial section that references Section 1, among other sections; (2) to list potential trademark examiner rejections, such as the rejections identified in Section 2; and finally (3) to point out possible avenues for overcoming certain trademark examiner rejections. In its final listing, TMEP § 818 makes reference to the supplemental register and potential disclaimers, as well as referring to overcoming rejections using a Section 2(f) acquired distinctiveness claim.

These three purposes of TMEP § 818 simplify trademark application requirements, rejections and certain response avenues in a relatively straightforward and bullet point style. TMEP § 818 is thus a valuable resource for understanding some of the basic concepts of trademark application practice.