Third Edition of Trademark Surveys: A Litigator’s Guide Published by LexisNexis Matthew Bender

A "must read" for those planning or conducting surveys in trademarks and related intellectual property litigation


The book has been called by Patent Baristas a “must read if you want to conduct trademark surveys.” It is intended to be a practical guide for lawyers and non-lawyers planning or conducting surveys in trademarks and related intellectual property litigation. The intent of the authors was not to write a legal treatise but to offer practical value for those doing trademark surveys.

Subjects covered in the book include likelihood of confusion, secondary meaning, distinctiveness and strength of trademarks, issues involving generic trademarks, trade dress issues and dilution issues. Other chapters focus on the impact of surveys on IP litigation, market research considerations, types or surveys and protocols, Daubert motion implications and a chapter devoted to practical considerations when working with trademark survey experts. The book includes notable cases and practical tools and templates.

Trademark Surveys 2019, the Third Edition, includes the following new features:
- Expanded discussion of Daubert and its implications
- More comprehensive discussion of the concept of “controls” and when they are needed
- More discussion of deceptive advertising and truth-in-advertising
- More prospective on the need of survey experts to “think out-of-the-box” when the survey doesn’t fit a “cookie-cutter” protocol
- More discussion of the Eveready and Squirt protocols with interesting insight provided by notable trademark attorney Jerre Swann
- New chapter that offers thumbnail sketches of a number of cases where trademark survey experts impacted resolution

Additional information including sales questions may be directed to LexisNexis Inbound Sales, inbound.sales(at)lexisnexis.com. Questions about review copies may be directed to Product Manager Andrew Stein, Andrew.Stein(at)lexisnexis.com or 212-448-2722. Author questions may be directed to James T. Berger, jberger(at)jamesberger.net or 847-912-1100.

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