

Examination Guide 2-23
Electronic Trademark Submissions Signed Using Document-signing Software
and Compliance with 37 C.F.R. §2.193
July 2023

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I. Purpose

This examination guide addresses the procedures for determining whether an electronically signed document complies with the requirements stated in Trademark Rule 2.193(c). 37 C.F.R. §2.193(c). Specifically, it sets out when submissions signed using third-party document-signing software may be accepted under Rule 2.193(c)(2). This guidance does not change any other requirements for signatures on trademark documents, including that a signature must be personally entered by the named signatory. Another person may not use document-signing software to create or generate the electronic signature of the named signatory. This guidance is effective on July 22, 2023 and supersedes any previous United States Patent and Trademark Office (USPTO) guidance on this topic to the extent there are any conflicts.

II. Background

Rule 2.193(c) sets forth the requirements for electronic signatures for trademark correspondence. This rule specifically states that a person signing a submission electronically must either:

- (1) Personally enter any combination of letters, numbers, spaces, and/or punctuation marks that he or she has adopted as a signature, placed between two forward slash ("/") symbols in the signature block on the electronic submission; or
- (2) Sign the document using some other form of electronic signature specified by the Director.

Prior to the issuance of this examination guide, the Director had not specified other forms of acceptable electronic signatures.

In recent years, other methods of electronic signature, such as those created through third-party software, have become more prevalent. Some software platforms include document-signing features with digital certificates or authenticity trails for the electronic

signature, resulting in the increased reliability and security of electronically generated signatures. Accordingly, the USPTO will now accept trademark documents with electronic signatures generated via third-party document-signing software that meets the requirements set forth in this examination guide, in accordance with the Director's discretion under Rule 2.193(c)(2). 37 C.F.R. §2.193(c)(2).

III. Requirements for Third-party Document-signing Software

Parties using third-party document-signing software must ensure that the underlying software:

- (1) Preserves signature data for later inspection in the form of a digital certificate, token, or audit trail. Examining attorneys and post-registration examiners may presume that the document-signing software retains and integrates signature data in the final pdf that is uploaded unless the Office of the Deputy Commissioner for Trademark Examination Policy notifies the examining attorney otherwise.
- (2) Generates or otherwise provides the date on which the signature was applied. If the software does not include the date of signature, the signatory must enter it on the electronic form. If the software generates a date and a different date is separately entered on the electronic form, the date generated by the software controls.
- (3) Indicates that the signature page or electronic submission form was generated or electronically signed using document-signing software.
- (4) Is specifically designed to generate an electronic signature. Signatures created using other types of software, such as graphic editing software, are not acceptable.

See attached appendix for examples of acceptable and unacceptable electronic signatures generated using document-signing software.

IV. Examination Procedures

When reviewing a signature on a document that was generated using document-signing software, examining attorneys and post-registration examiners must first determine compliance with other signature requirements, such as whether it was signed by a proper person under Rule 2.193(e). See TMEP §611.02 for more information on signatures by proper parties. Submissions also must be personally signed by the individual identified in the signatory name field. See 37 C.F.R. §2.193(a)(2), (d); TMEP §611.01(b). Another person may not use document-signing software to enter or electronically generate someone else's signature. See 37 C.F.R. §2.193(a)(2); *In re Dermahose Inc.*, 82 USPQ2d 1793 (TTAB 2007); *In re Cowan*, 18 USPQ2d 1407, 1409 (Comm'r Pats. 1990); TMEP §611.01(b).

Examining attorneys and post-registration examiners must ensure that the signature block comports with the requirements listed below:

- (1) **Name and title.** The first and last name, and the title or position, of each person who signed the document must be set forth immediately below or adjacent to the signatory's adopted signature. If the signatory's full name is not provided, the signatory's first and last name must be stated for the record. This information can be entered through a Public Note.
- (2) **Date signed.** The date that the document was signed must appear with the signature. As noted in the instructions within the electronic form and appearing on the generated pdf signature page, if the document-signing software provides a date and timestamp, separate manual entry of the signature date is not required. If the signature date is manually entered and disagrees with the software-generated timestamp date, the date generated by the software controls for purposes of determining the date of signature. Regardless of the date the form was signed, the filing date for the electronic submission remains the date and time the USPTO receives the submission, in Eastern Time.
- (3) **USPTO timestamp.** The pdf signature page generated within the USPTO's form must display the timestamp applied by the USPTO's electronic filing system that indicates when the signature page was created within the electronic form (i.e., prior to signature).
- (4) **Acceptable software type.** The software used by the signer must meet the requirements for third-party document-signing software listed in Section III.

See 37 C.F.R. §2.193(a), (c), (d); TMEP §§303.01, 611.01(b), 804.03.

If the submission is signed by a proper party and all the elements listed above are satisfied, the examining attorney may presume the signature meets the requirements for an acceptable electronic signature, unless directed otherwise by the Office of the Deputy Commissioner for Trademark Examination Policy. If one or more of these requirements are not met, the signature will be treated as an unacceptable electronic signature. 37 C.F.R. §2.193(c).

Notwithstanding the provisions above, examining attorneys and post-registration examiners retain the discretion to inquire regarding the acceptability of a signature on an electronic trademark submission or to require evidence of authenticity of such signature.

The requirements regarding submissions signed using document-signing software apply only to documents that must be signed in accordance with Rule 2.193(e). 37 C.F.R. §2.193(e). These requirements do not apply to an agreement between the applicant and

the owner of a cited mark consenting to registration of the applicant's mark or a consent to register the name of an individual under Section 2(c). 15 U.S.C. §1052(c)-(d).

V. Appendix

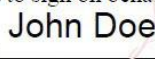
Below is a non-exhaustive collection of examples of acceptable and unacceptable signatures generated by document-signing software. Other providers of document-signing software may be accepted if they satisfy the criteria described in this Examination Guide. Although the examples include a “phone number,” Rule 2.193(d) requires only the first and last name, and the title or position of the person who signs a document, in addition to the signature.

Acceptable Example 1

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

Signature:  Digitally signed by John Doe
Date: 2023.05.15
15:19:44 -04'00'
Signatory's Name: John Doe
Signatory's Position: COO
Signatory's Phone Number: 555-555-5555
Date Signed: _____

Document generated on May 12, 2023 at 9:24:06 a.m. ET

This example is acceptable because it includes the timestamp generated by the USPTO's electronic filing system; it indicates that the document was electronically signed using document-signing software; and it shows the date and time the document was signed, the signature and the signatory's name as generated by document-signing software and also as separately entered, and the signatory's position.

Acceptable Example 2

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

John Doe
Signature: _____
Signatory's Name: _____
Signatory's Position COO
Signatory's Phone Number: _____
Date Signed: _____

Document generated on May 12, 2023 at 9:24:06 a.m. ET

This example is acceptable because it includes the timestamp generated by the USPTO's electronic filing system; it indicates that the document was electronically signed using document-signing software; and it shows the date and time the document was signed, the signature and the signatory's name as generated by document-signing software, and the separately entered signatory's position. Although the signatory did not separately indicate the signatory's name or the date this document was signed, those required elements are included in the digitally generated signature itself.

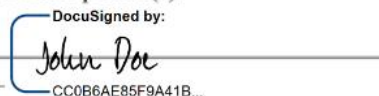
Acceptable Example 3

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

Signature: _____
Signatory's Name: John Doe
Signatory's Position: COO
Signatory's Phone Number: 555-555-5555
Date Signed: May 15, 2023

DocuSigned by:

CC0B6AE85F9A41B...

Document generated on May 12, 2023 at 9:24:06 a.m. ET

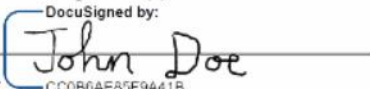
This example is acceptable because it includes the timestamp generated by the USPTO's electronic filing system; indicates that the document was electronically signed using document-signing software; and shows the signatory's name, the date the document was signed, the signature as generated by document-signing software, and the signatory's position. Although the document-signing software did not apply the signatory's name, position, or the date this document was signed, the signatory manually entered this required information in the signature block on the form.

Acceptable Example 4

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

Signature:  DocuSigned by:
Signatory's Name: John Doe CC0B6AE85F9A41B...
Signatory's Position: COO
Signatory's Phone Number: 555-555-5555
Date Signed: May 15, 2023

Document generated on May 12, 2023 at 9:24:06 a.m. ET

This example is acceptable because it includes the timestamp generated by the USPTO's electronic filing system; it indicates that the document was electronically signed using document-signing software with identifying information that could be used to ascertain authenticity; and it shows the signatory's name, the date the document was signed, the signature as generated by document-signing software in the form of a digital hand-drawn signature, and the signatory's position. Although the document-signing software did not provide the signatory's name, position, or the date this document was signed, the signatory manually entered this required information in the signature block on the form.

Unacceptable Example 1

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

John Doe
Signature: _____
Signatory's Name: _____
Signatory's Position: _____
Signatory's Phone Number: _____
Date Signed: _____

Document generated on May 12, 2023 at 9:24:06 a.m. ET

This example is unacceptable because, although it includes the signature and date signed, the signatory's name as entered by the document-signing software, and the timestamp generated by the USPTO's electronic filing system, **it does not include** the signatory's position.

Unacceptable Example 2

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

Signature: _____
Signatory's Name: _____
Signatory's Position: _____
Signatory's Phone Number: _____
Date Signed: _____

DocuSigned by:

CC0B6AE85F9A41B...

Document generated on May 12, 2023 at 9:24:06 a.m. ET

This example is unacceptable because, although it includes the signature as entered by the document-signing software and the timestamp generated by the USPTO's electronic filing system, **it does not include** the signatory's first and last name, the signatory's position, or the date the document was signed.

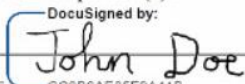
Unacceptable Example 3

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

Signature: _____
Signatory's Name: _____
Signatory's Position: _____
Signatory's Phone Number: _____
Date Signed: _____

DocuSigned by:

CC0B0AE85F9A41B...

Document generated on May 12, 2023 at 9:24:06 a.m. ET

This example is unacceptable because, although it includes the signature as entered by the document-signing software in the form of a digital copy of a hand-drawn signature, and the timestamp generated by the USPTO's electronic filing system, **it does not include** the signatory's first and last name, the signatory's position, or the date the document was signed.

Unacceptable Example 4

- To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Signature Section:

NOTE: The same person may sign the declaration on behalf of the other joint applicant(s), by merely making identical entries. The USPTO will presume that the one person who has signed was, in fact, authorized to sign on behalf of the other person(s).

Signature: John Doe

Signatory's Name: John Doe

Signatory's Position: COO

Signatory's Phone Number: 555-555-5555

Date Signed: _____

Document generated on May 12, 2023 at 9:24:06 a.m. ET

This example is unacceptable because it does not indicate that the signature was created using document-signing software, but instead appears to have been created by software that allows users to manually draw elements on a digital document. These types of signatures are unacceptable because the signature data is not preserved by the software for later inspection in the form of a digital certificate, token, or audit trail. Therefore, the document is treated as unsigned. Also, the signature block does not indicate the date of signature.