

**Miscellaneous Changes to Trademark Trial and Appeal Board Rules,
72 Fed. Reg. 42242 (August 1, 2007), Summary by Rule Number:**

Rule(s)	Subject(s)	Effective Date	Applicability
2.99(b), (c) and (d)(1)	(b) DELETES: Requirement that concurrent use applicant file copies of application for service on defendants. (c) ADDS: Board may serve notice by e-mail when party has provided Office with an e-mail address. (d)(1) DELETES: Reference to Board sending copies of application to defendants. ADDS: Concurrent use applicant obligation to serve copies of application on defendants after notification of institution of proceeding.	November 1, 2007	Cases commenced on or after November 1, 2007
2.101(a), (b) and (d)(4)	(a), (b), (d)(4) ADDS: Opposer obligation to serve copy of notice of opposition on defendant and include proof of service with notice of opposition. (b) ADDS: Opposer must notify Board within 10 days of receipt of any returned service copy.	November 1, 2007	Cases commenced on or after November 1, 2007
2.105(a) and (c)	(a) ADDS: Board may serve notice by e-mail when party has provided Office with an e-mail address. (c) DELETES: Reference to Board serving copy of notice of opposition and exhibits on applicant.	August 31, 2007 for 2.105(a), but November 1, 2007 for 2.105(c)	All cases pending or commenced on or after August 31, 2007 for 2.105(a), but only cases commenced on or after November 1, 2007 for 2.105(c)
2.111(a), (b) and (c)(4)	(a), (b) and (c)(4) ADDS: Petitioner obligation to serve copy of petition for cancellation on defendant and include proof of service with petition. (b) ADDS: Petitioner must notify Board within 10 days of receipt of any returned service copy.	November 1, 2007	Cases commenced on or after November 1, 2007

Rule(s)	Subject(s)	Effective Date	Applicability
2.113(a) and (c), removal of (e)	(a) ADDS: Board may serve notice by e-mail when party has provided an e-mail address. (c) DELETES: Reference to Board sending service copy. (e) DELETES: Reference to allowing petitioner time to correct informality in petition.	August 31, 2007 for 2.113(a) and removal of (e), but November 1, 2007 for 2.113(c)	All cases pending or commenced on or after August 31, 2007 for 2.113(a) and (e), but only cases commenced on or after November 1, 2007 for 2.113(c)
2.116(g)	ADDS: Standard Protective Order applicable in every case (covering disclosures, discovery and trial).	August 31, 2007	All cases pending or commenced on or after August 31, 2007. EXCEPTION: Not applicable in pending cases that already have a protective order in place.
2.118	ADDS: Board may publish notice of proceeding in O.G. in <i>any</i> inter partes case	August 31, 2007	All cases pending or commenced on or after August 31, 2007. NOTE: The Board will not effect notice by publication in concurrent use cases for excepted common law users, as the concurrent use applicant must provide a usable address for service or decide whether to delete the user as a defendant.

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2.119(a) and (b)(6)	(a) DELETES: References to pleadings being an exception to service requirement. (b)(6) ADDS: Option for parties to agree to use fax or e-mail for service.	November 1, 2007 for 2.119(a), but August 31, 2007 for 2.119(b)(6)	Cases commenced on or after November 1, 2007 for 2.119(a), but all cases pending or commenced on or after August 31, 2007 for 2.119(b)(6)
2.120(a) NOTE: now broken into subsections (1) to (3)	ADDS: Numerous general provisions regarding the required discovery conference, what to discuss in such conferences, and when it may be necessary to file written report on conference discussions; regarding initial disclosures (including requirement that initial disclosures must be made before a party can take discovery); and regarding expert testimony disclosures.	November 1, 2007	Cases commenced on or after November 1, 2007
2.120(d)(1)	CLARIFIES: Any stipulation of parties to exceed interrogatory limit requires approval of the Board. UNCHANGED: Interrogatory limit.	August 31, 2007	All cases pending or commenced on or after August 31, 2007
2.120(e)	ADDS: Motion to compel may address initial disclosures and expert testimony disclosures. ADDS: Motion to compel either type of disclosure must be filed prior to close of discovery. ADDS: Motion to compel does not toll time to make any required disclosure. UNCHANGED: Motion to compel discovery may still be filed after discovery has closed but must be prior to trial. CLARIFIES: Party may not serve new discovery after filing and service of motion to compel, until suspension by Board is lifted or expires.	November 1, 2007	Cases commenced on or after November 1, 2007
2.120(f)	ADDS: Motion for protective order covers initial disclosures and expert testimony disclosures in addition to discovery requests.	November 1, 2007	Cases commenced on or after November 1, 2007

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2.120(g)	ADDS: Motion for sanctions can be filed for failure of a party to participate in discovery conference, but must be filed prior to the deadline for initial disclosures; motion may also be filed for failure to make initial disclosures, or failure to make expert testimony disclosures.	November 1, 2007	Cases commenced on or after November 1, 2007
2.120(h)(2)	ADDS: Motion to test sufficiency does not toll time to make any required disclosure. CLARIFIES: Party may not serve new discovery after filing and service of motion to test sufficiency, until suspension by Board is lifted or expires.	November 1, 2007	Cases commenced on or after November 1, 2007
2.120(i)(1) and (2)	(i)(1) CLARIFIES: Rule covers stipulations and motions. (i)(2) CORRECTS: Titles of Board judges; and coverage of rule expanded to include disclosure, discovery or pretrial conference.	November 1, 2007	Cases commenced on or after November 1, 2007
2.120(j)(3) and (5) through (8)	ADDS: Written disclosures treated the same as responses to interrogatories or requests for admission, for most purposes; but disclosed documents treated the same as responses to requests for production.	November 1, 2007	Cases commenced on or after November 1, 2007
2.121(a), (d) and (e)	ADDS: Requirements for pretrial disclosure of witnesses expected to testify, or who may testify, if needed, what to disclose about them, and when to make disclosures. NOTE: (a) and (d) primarily affect scheduling and are amended to include references to rescheduling of pretrial disclosure deadlines in addition to other deadlines; (e) contains the substantive addition of pretrial disclosure of witnesses.	November 1, 2007	Cases commenced on or after November 1, 2007
2.122(d)(1)	DELETES: Need to file <i>two</i> copies of pleaded registration showing status and title. ADDS: Option to provide proof of status and title of pleaded registration by filing copies of records from USPTO electronic databases (i.e., TARR and Assignment records).	August 31, 2007	Cases commenced on or after August 31, 2007

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2.123(e)(3)	AMENDS provisions regarding motions to strike testimony to account for motions to strike all or part of testimony deposition for lack of proper or adequate pretrial disclosure.	November 1, 2007	Cases commenced on or after November 1, 2007
2.126(a)(6), removal of (b) and redesignation of (c) and (d) as (b) and (c)	DELETES: Option to file by CD-ROM.	August 31, 2007	All cases pending or commenced on or after August 31, 2007 NOTE: any CD-ROMS already filed in pending cases shall remain of record and not be subject to motion to strike or objection on basis of change in rule.
2.127(a) and (c)	(a) ADDS: Clarifying language regarding page limits on briefs for motions (to conform to existing practice). (c) CORRECTS: Titles of Board judges.	August 31, 2007	All cases pending or commenced on or after August 31, 2007 NOTE: Correction in subsection (c) affects no cases.
2.127(e)(1) and (e)(2)	(e)(1) ADDS: Restriction against filing motion for summary judgment until after initial disclosures made, except for motion on claim or issue preclusion or lack of jurisdiction. (e)(2) REWRITTEN, and allows use of written disclosures and disclosed documents in support of a motion for summary judgment.	November 1, 2007	Cases commenced on or after November 1, 2007
2.129(a)	CORRECTS: Titles of Board judges.	August 31, 2007	Correction affects no cases
2.133(a) and (b)	Conform provisions regarding amendments of applications or registrations to existing practices.	August 31, 2007	All cases pending or commenced on or after August 31, 2007

Rule(s)	Subject(s)	Effective Date	Applicability
2.142(e)(1)	CORRECTS: Titles of Board Judges.	August 31, 2007	Correction affects no cases
2.173(a) and 2.176	Conform provisions regarding amendment of registrations to existing practices.	August 31, 2007	All cases pending or commenced on or after August 31, 2007