

Summary of Key Changes¹ to TTAB Rules (Effective Jan. 14, 2017)

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Rule	Old Rule(s)	New Rule(s)
Service of notices of opposition or cancellation.	Petitioner required to serve. §§ 2.101, 2.111.	TTAB will serve. For oppositions, TTAB will serve by email to authorized addresses. § 2.105. For cancellations, TTAB will serve by U.S. mail pending enhancements to system to permit service by email. § 2.113.
Service of concurrent use application.	Applicant required to serve. § 2.99(d)(1).	TTAB will serve (by email if provided). § 2.99(c),(d).
Filing through Electronic System for Trademark Trials and Appeals (“ESTTA”).	Optional, except for mandatory ESTTA filing of certain papers relating to Section 66(a) applications. §§ 2.101(b), 2.102(a).	Mandatory, but paper filing may be allowed upon petition for ESTTA technical problems or extraordinary circumstances. <i>E.g.</i> , §§ 2.101(b), 2.102(a), 2.106(b), 2.111(c), 2.114(b), 2.121(d), 2.123(f)(2), 2.126. <u>Note</u> : oppositions or extensions to oppose Section 66(a) applications must always be filed electronically.
Notification of other proceedings.	n/a	Applicant or respondent must “promptly inform” TTAB of another proceeding between the same parties or anyone in privity. §§ 2.106(b)(3)(i); 2.114(b)(3).

¹ The TTAB rule amendments include additional changes not identified here. See 81 Fed. Reg. 69950 (Oct. 7, 2016).

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Identification of respondent contact information in cancellation petition.	n/a	Cancellation petition must identify “to the best of petitioner’s knowledge” the name, address, and email address of respondent. § 2.112(a). No requirement to identify respondent’s attorney.
Disclosure of confidential designated information by TTAB.	n/a	“The Board may treat as not confidential that material which cannot reasonably be considered confidential, notwithstanding a designation as such by a party.” § 2.116(g).
Service of papers by email. § 2.119(b).	Only if agreed to by parties.	Email service mandatory, unless (i) otherwise agreed by parties or (ii) email service cannot occur due to technical problems or extraordinary circumstances.
Additional time for certain types of service. § 2.119(c).	5 days added to response periods if service by first-class mail, Priority Mail Express, or overnight courier.	No additional days, regardless of manner of service. Time to respond begins on date of service.
Proportionality in discovery. § 2.120(a)(1).	Applicability of Federal Rule of Civil Procedure 26 includes “scope, timing, and sequence of discovery.”	“Proportionality” added for consistency with amended Federal Rules of Civil Procedure.
Serving discovery. § 2.120(a)(3).	Discovery requests must be served on or before the close of discovery.	Discovery requests must be served so that responses will be due no later than close of discovery.
Extending discovery responses. § 2.120(a)(3).	Parties may agree to extend response periods beyond close of discovery.	Parties may not agree to responses due later than the close of discovery.
Requests for production.	No limit. § 2.120(d).	Limited to 75, and a mechanism for objecting to more is provided. § 2.120(e).

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Requests for admission.	No limit. § 2.120(h).	Limited to 75, and a mechanism for objecting to more is provided. § 2.120(i). Parties may make one comprehensive request for admission to authenticate specific documents from other parties.
Witness testimony.	Witness testimony may be taken by deposition or written questions. § 2.123(a). Affidavit testimony permitted only if agreed by the parties. § 2.123(b).	Witness testimony may be made by affidavit or declaration (subject to cross-examination), or by deposition or written questions. §§ 2.121(e), 2.123(a). <u>Note</u> : video testimony is still not allowed.
Cross-examination of affiant or declarant.	n/a	Party electing to cross-examine affiant or declarant must serve and file election notice within 20 days from service of the affidavit or declaration. Cross-examination must be completed within 30 days from the date of service of election notice. §§ 2.123(c). If cross-examination is by written questions, the questions are served but not filed. § 2.124(d)(1).
Notice of reliance statement of relevance.	Only required for printed publications and official records. § 2.122(e).	All notices must indicate relevance of evidence and associate it with one or more issues. § 2.122(g).
Deadlines for responses and replies to motions (excluding summary judgment motions).	15 days from service. § 2.127(a).	20 days from service. § 2.127(a).