

## **Attachment A**

### **APPENDIX OF FORMS**

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APPENDIX B: [RESERVED]

APPENDIX C: CERTIFICATE OF SERVICE SUGGESTED FORMAT

APPENDIX D: DESIGNATION OF DOMESTIC REPRESENTATIVE SUGGESTED FORMAT

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#### **APPENDIX A: CERTIFICATE OF MAILING SUGGESTED FORMAT**

##### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First-class mail in an envelope addressed to:

ATTN: Trademark Trial and Appeal Board  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

on \_\_\_\_\_

Date                      Signature

\_\_\_\_\_  
Typed or printed name of person signing certificate

#### **APPENDIX B: [RESERVED]**

#### **APPENDIX C: CERTIFICATE OF SERVICE SUGGESTED FORMAT**

##### **Certificate of Service**

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I hereby certify that a true and complete copy of the foregoing (*insert title of submission*) has been served on (*insert name of opposing counsel or party*) by forwarding said copy on (*insert date of mailing*), via email (*or insert other appropriate method of delivery*) to: (*set out name and address of opposing counsel or party*).

\_\_\_\_\_  
*Signature*

### **APPENDIX D: DESIGNATION OF DOMESTIC REPRESENTATIVE SUGGESTED FORMAT**

#### **Designation of Domestic Representative**

(Name of Domestic Representative), whose postal address is \_\_\_\_\_, is hereby designated (Name of Designating Party)'s representative upon whom notice or process in this proceeding may be served.

\_\_\_\_\_  
(Signature of Designating Party)

\_\_\_\_\_  
(Identification of Person Signing)

\_\_\_\_\_  
(Date of Signature)

### **APPENDIX E: SAMPLE SCHEDULING ORDER WITHOUT A COUNTERCLAIM**

#### **Sample Scheduling Order Without a Counterclaim**

Time to Answer	<b>7/1/2020</b>
Deadline for Discovery Conference	<b>7/31/2020</b>
Discovery Opens	<b>7/31/2020</b>
Initial Disclosures Due	<b>8/30/2020</b>
Expert Disclosures Due	<b>12/28/2020</b>
Discovery Closes	<b>1/27/2021</b>
Plaintiff's Pretrial Disclosures Due	<b>3/13/2021</b>
Plaintiff's 30-day Trial Period Ends	<b>4/27/2021</b>
Defendant's Pretrial Disclosures Due	<b>5/12/2021</b>
Defendant's 30-day Trial Period Ends	<b>6/26/2021</b>
Plaintiff's Rebuttal Disclosures Due	<b>7/11/2021</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>8/10/2021</b>

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Plaintiff's Opening Brief Due	<b>10/9/2021</b>
Defendant's Brief Due	<b>11/8/2021</b>
Plaintiff's Reply Brief Due	<b>11/23/2021</b>
Request for Oral Hearing (optional) Due	<b>12/3/2021</b>

### **APPENDIX F: SAMPLE SCHEDULING ORDER WITH A COUNTERCLAIM**

#### **Sample Scheduling Order With a Counterclaim**

Answer to Counterclaim Due	<b>7/2/2020</b>
Deadline for Discovery Conference	<b>8/1/2020</b>
Discovery Opens	<b>8/1/2020</b>
Initial Disclosures Due	<b>8/31/2020</b>
Expert Disclosures Due	<b>12/29/2020</b>
Discovery Closes	<b>1/28/2021</b>
Plaintiff's Pretrial Disclosures	<b>3/14/2021</b>
30-day testimony period for plaintiff's testimony to close	<b>4/28/2021</b>
Defendant/Counterclaim Plaintiff's Pretrial Discloser	<b>5/13/2021</b>
30-day testimony period for defendant and plaintiff in the counterclaim to close	<b>6/27/2021</b>
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosure Due	<b>7/12/2021</b>
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	<b>8/26/2021</b>
Counterclaim Plaintiff's Rebuttal Disclosures Due	<b>9/10/2021</b>
15-day rebuttal period for plaintiff in the counterclaim to close	<b>10/10/2021</b>
Brief for plaintiff due	<b>12/9/2021</b>
Brief for defendant and plaintiff in the counterclaim due	<b>1/8/2022</b>
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	<b>2/7/2022</b>
Reply brief, if any, for plaintiff in counterclaim due	<b>3/4/2022</b>
Request for Oral Hearing (optional) Due	<b>3/4/2022</b>

### **APPENDIX G: [RESERVED]**

### **APPENDIX H: SAMPLE SCHEDULING ORDERS FOR CONCURRENT USE PROCEEDINGS**

#### **Sample Scheduling Orders for Concurrent Use Proceedings Commenced On or After November 1, 2007**

Set forth below is a sample schedule for a concurrent use proceeding involving parties A, B, C, D, and E, where A, B, C, and D are all concurrent use applicants, A's application has the latest filing date, B's application has the next-latest filing date, C's application has the next-latest filing date, D's application has the earliest filing date, and E is a specified concurrent user which does not own

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an involved application or registration (the schedule would look the same if E were a concurrent use applicant whose application had the earliest filing date, or if E owned an involved registration):

Answer to Concurrent Use Due	6/1/2020
Deadline for Discovery Conference	7/1/2020
Discovery Opens	7/1/2020
Initial Disclosures Due	7/31/2020
Expert Disclosures Due	11/28/2020
Discovery Closes	12/28/2020
A's Pretrial Disclosures Due	2/11/2021
A's 30-day Trial Period Ends	3/28/2021
B's Pretrial Disclosures Due	4/12/2021
B's 30-day Trial Period Ends	5/27/2021
C's Pretrial Disclosures Due	6/11/2021
C's 30-day Trial Period Ends	7/26/2021
D's Pretrial Disclosures Due	8/10/2021
D's 30-day Trial Period Ends	9/24/2021
E's Pretrial Disclosures Due	10/9/2021
E's 30-day Trial Period Ends	11/23/2021
A's Rebuttal Disclosures Due	12/23/2021
A's 15-day Rebuttal Period Ends	1/22/2022
B's Rebuttal Disclosures Due	2/6/2022
B's 15-day Rebuttal Period Ends	3/8/2022
C's Rebuttal Disclosures Due	3/23/2022
C's 15-day Rebuttal Period Ends	4/22/2022
D's Rebuttal Disclosures Due	5/7/2022
D's 15-day Rebuttal Period Ends	6/6/2022
E's Rebuttal Disclosures Due	6/21/2022
E's 15-day Rebuttal Period Ends	7/21/2022
A's Brief Due	9/19/2022
B's Brief Due	10/19/2022
C's Brief Due	11/18/2022
D's Brief Due	12/18/2022
E's Brief Due	1/17/2023
A's Reply Brief Due	2/1/2023
B's Reply Brief Due	2/16/2023
C's Reply Brief Due	3/3/2023
D's Reply Brief Due	3/18/2023
E's Reply Brief Due	4/2/2023

Set forth below is another sample schedule for a concurrent use proceeding involving parties X, Y, and Z, where X is a concurrent use applicant, Y owns a registration which is involved in the

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proceeding, and Z is a specified concurrent user which does not own an involved application or registration:

Answer to Concurrent Use Due	6/1/2020
Deadline for Discovery Conference	7/1/2020
Discovery Opens	7/1/2020
Initial Disclosures Due	7/31/2020
Expert Disclosures Due	11/28/2020
Discovery Closes	12/28/2020
X's Pretrial Disclosures Due	2/11/2021
X's 30-day Trial Period Ends	3/28/2021
Y's Pretrial Disclosures Due	4/12/2021
Y's 30-day Trial Period Ends	5/27/2021
Z's Pretrial Disclosures Due	6/11/2021
Z's 30-day Trial Period Ends	7/26/2021
X's Rebuttal Disclosures Due	8/10/2021
X's 15-day Rebuttal Period Ends	9/24/2021
Y's Rebuttal Disclosures Due	10/9/2021
Y's 15-day Rebuttal Period Ends	11/23/2021
Z's Rebuttal Disclosures Due	12/28/2021
Z's 15-day Rebuttal Period Ends	1/7/2022
X's Brief Due	3/8/2022
Y's Brief Due	4/7/2022
Z's Brief Due	5/7/2022
X's Reply Brief Due	5/22/2022
Y's Reply Brief Due	6/6/2022
Z's Reply Brief Due	6/21/2022
Request for Oral Hearing (optional) Due	7/1/2022

The schedule set forth immediately above would look the same if Y and Z were both specified concurrent users that did not own an involved application or registration. If X, Y, and Z were all concurrent use applicants, there would be a separate testimony period and pretrial disclosure due date for each party, and X and Y would each have a separate rebuttal testimony period; each party would also be allowed time to file a brief on the case, but only X and Y would be allowed time in which to file a reply brief.

Set forth below is a sample schedule used where A is a concurrent use applicant, and B, C, and D are named excepted users, none of which own a registration or pending trademark application. In this case, the trial schedule is issued only after the date for answer has passed, and if a defending user fails to file an answer, it will not be included on the schedule.

Answer to Concurrent Use Due	6/1/2020
Deadline for Discovery Conference	7/1/2020

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Discovery Opens	7/1/2020
Initial Disclosures Due	7/31/2020
Expert Disclosures Due	11/28/2020
Discovery Closes	12/28/2020
A's Pretrial Disclosures	2/11/2021
A's 30-day Trial Period Ends	3/28/2021
B's Pretrial Disclosures	4/12/2021
B's 30-day Trial Period Ends	5/27/2021
C's Pretrial Disclosures	6/11/2021
C's 30-day Trial Period Ends	7/26/2021
D's Pretrial Disclosures	8/10/2021
D's 30-day Trial Period Ends	9/24/2021
A's Rebuttal Disclosures Due	10/24/2021
A's 15-day Rebuttal Period Ends	11/23/2021
B's Rebuttal Disclosures Due	12/8/2021
B's 15-day Rebuttal Period Ends	1/7/2022
C's Rebuttal Disclosures Due	1/22/2022
C's 15-day Rebuttal Period Ends	2/21/2022
D's Rebuttal Disclosures Due	3/8/2022
D's 15-day Rebuttal Period Ends	4/7/2022
A's Brief Due	6/6/2022
B's Brief Due	7/6/2022
C's Brief Due	8/5/2022
D's Brief Due	9/4/2022
A's Reply Brief Due	9/19/2022
B's Reply Brief Due	10/4/2022
C's Reply Brief Due	10/9/2022
D's Reply Brief Due	11/3/2022
Request for Oral Hearing (optional) Due	11/13/2022

With the exceptions noted above, the practices and procedures for conducting discovery conferences, serving initial, expert, and pretrial disclosures, taking discovery, filing motions, introducing evidence, briefing the case, presenting oral arguments at final hearing, and seeking review of a decision of the Board, are essentially the same in a concurrent use proceeding as in an opposition or cancellation proceeding.

### **APPENDIX I: NOTICE OF APPEAL: SUGGESTED FORMAT FOR APPLICATIONS**

A notice of appeal must be filed electronically through ESTTA. Set forth below is a suggested format for a notice of appeal from final refusal of an application, to be used in the event ESTTA is unavailable. When an applicant which has filed a timely request for reconsideration of a final action, second refusal on the same ground(s), or repeated requirement, also files a timely appeal, they should indicate on the notice of appeal that a request for reconsideration has been filed.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

\_\_\_\_\_

**(Name of Applicant)**

\_\_\_\_\_

**(Serial Number of Application)**

\_\_\_\_\_

**(Filing Date of Application)**

\_\_\_\_\_

**(Mark)**

**NOTICE OF APPEAL**

Notice is given that Applicant appeals to the Trademark Trial and Appeal Board the refusal to register the application.

The following goods or services are at issue on appeal:

\_\_\_\_\_

**(Class(es) and Goods or Services)**

By \_\_\_\_\_

**(Signature)**

\_\_\_\_\_

**(Identification of Person Signing)**

Set forth below is a suggested format for a notice of appeal from an expungement or reexamination proceeding. When a registrant which has filed a timely request for reconsideration of a final action also files a timely appeal, they should indicate on the notice of appeal that a request for reconsideration has been filed.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

\_\_\_\_\_

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**(Name of Registrant)**

\_\_\_\_\_

**(Expungement or Reexamination Number)**

\_\_\_\_\_

**(Registration Number)**

\_\_\_\_\_

**(Mark)**

**NOTICE OF APPEAL**

Notice is given that Registrant appeals to the Trademark Trial and Appeal Board the final action in an expungement or reexamination proceeding.

The following goods or services are at issue on appeal:

\_\_\_\_\_

**(Class(es) and Goods or Services)**

By \_\_\_\_\_

**(Signature)**

\_\_\_\_\_

**(Identification of Person Signing)**