

## **ESTTA TIPS:**

### **BLANK OR MISSING ATTACHMENTS (Tip Added 3/26/14)**

The TTAB is aware that ESTTA filers occasionally do not see in TTABVUE attachments submitted with their ESTTA cover sheets. Typically, this problem arises with certain types of attachments and, in particular, pdf attachments created using particular applications. While the TTAB does not recommend any particular application for creation of pdfs, the following appear to be the most compatible with ESTTA: Adobe Acrobat, CutePDF Writer, Print to PDF. The TTAB will continue to work on enhancements to ESTTA to accommodate as many means for attaching documents to the ESTTA filing form as possible. **It is advisable for ESTTA filers to check TTABVUE records after submitting a new filing with attachments, to ensure that the attachments appear in TTABVUE; and if they do not, to contact the Board for assistance, at 571-272-8500.**

### **ENTERING EMAIL ADDRESSES WHEN FILING CONSENT MOTIONS (Tip Added 3/26/14)**

The Board has been informed by some parties that they are not receiving as many copies as expected of ESTTA-generated orders approving of consented motions to extend or suspend. Specifically, when these parties have multiple e-mail addresses on file with the Board, they may not receive ESTTA-generated orders at all of those addresses. The problem arises when the filer of the consented motion does not include in the filing form all of the email addresses for the adverse party or parties. To avoid this problem, **the filer of a consent motion, when entering its e-mail address(es) and those of the other party or parties, must include all e-mail addresses shown in TTABVue to ensure complete distribution by ESTTA of notices from the Board. (The filer can copy and paste these addresses from TTABVue into the ESTTA filing form).**

### **ESTTA CONSENT MOTION FILING OPTIONS**

Parties may use the ESTTA "Consent Motions (opposition or cancellation)" filing option regardless of whether the proceeding commenced before November 1, 2007 (prior Rules), or on/after November 1, 2007 ("New" or "Amended" Rules).

**HOWEVER**, to prevent the ESTTA system from generating an order containing a deadline or schedule contrary to the parties' intentions, please read the **IMPORTANT USER GUIDELINES** set forth below. (Updated 11/20/2008)

When ESTTA filers use the "Consent Motions" filing option, the resulting order issued by ESTTA should be checked carefully to ensure that the parties receive the new deadline or schedule they anticipated when making the filing. If any deadline or dates in the resulting order do not comport with the parties' expectations or create uncertainty about the schedule for the case, then the parties should strongly consider filing a superseding stipulation or agreed motion through the "Opposition, Cancellation or Concurrent Use (general filings)" filing option. The "General Filings" option can always be used when the parties wish to be very particular about agreed deadlines or schedules, and should be used when the ESTTA "Consent Motions" filing option does not result in the new deadline or schedule to which the parties agreed.

#### I. How do I file a Consent Motion for suspension for settlement when the next deadline is other than the due date for "Initial Disclosures"?

Currently, under "New Rules" cases, parties cannot extend the time to comply with the next deadline in the current proceeding schedule AND suspend for settlement in one ESTTA consent motion filing, because ESTTA will issue a form order that provides, upon resumption, only the number of days that *currently* remain to comply with the next deadline.

Example: Filing a consent motion to suspend for settlement 1 day before an answer is due will result in an order resetting the answer due date to 1 day after resumption.

Guideline: FIRST file a consent motion to extend the time remaining to comply with the next deadline, WAIT to receive an order granting the extension, THEN file a consent motion to suspend. Note, however, that this option cannot be used when the next deadline is for initial disclosures (see below).

#### II. How do I file a Consent Motion to extend or suspend when the next deadline is the due date for "Initial Disclosures"?

Guideline: **DO NOT** use the ESTTA "Consented Motions" option. Instead, use the ESTTA "General Filings" option and include a proposed schedule (in the same format as the Board's institution order) with the desired new initial disclosure deadline, and all subsequent deadlines.

### III. How do I file a Consent Motion to extend when the next deadline is the expert disclosure deadline?

Guideline: To use the ESTTA "Consented Motions" filing option to extend the expert disclosure deadline, the parties will have to input the next deadline as the close of discovery. When ESTTA resets the closing date for discovery, it will automatically reset the expert disclosure deadline.

### IV. How do I file a Consent Motion to extend when the next deadline is a pretrial disclosure deadline?

Guideline: To use the ESTTA "Consented Motions" filing option to extend a pretrial disclosure deadline, the parties will have to input the next deadline as the close of the testimony period which would follow that pretrial disclosure deadline. When ESTTA resets the closing date of that testimony period it will automatically reset the corresponding pretrial disclosure deadline for that testimony period.