

# Attachment A

## APPENDIX OF FORMS

APPENDIX A: CERTIFICATE OF MAILING SUGGESTED FORMAT

APPENDIX B: CERTIFICATE OF TRANSMISSION SUGGESTED FORMAT

APPENDIX C: CERTIFICATE OF SERVICE SUGGESTED FORMAT

APPENDIX D: DESIGNATION OF DOMESTIC REPRESENTATIVE

APPENDIX E: SAMPLE TRIAL ORDER -- STANDARD

APPENDIX F: SAMPLE TRIAL AND BRIEFING ORDER WITH A COUNTERCLAIM

APPENDIX G: SAMPLE TRIAL ORDER FOR INTERFERENCE

APPENDIX H: SAMPLE TRIAL ORDERS FOR CONCURRENT USE PROCEEDINGS

APPENDIX I: NOTICE OF APPEAL – SUGGESTED FORMAT

### **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 Certificate of Transmission Suggested Format**

#### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office

TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

on \_\_\_\_\_

Date                      Signature

\_\_\_\_\_

Typed or printed name of person signing certificate

**APPENDIX C**

**Certificate of Service Suggested Format**

Shown below is a suggested format for a certificate of service:

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 mailing said copy on (*insert date of mailing*), via First Class Mail, postage prepaid (*or insert other appropriate method of delivery*) to: (*set out name and address of opposing counsel or party*).

**APPENDIX D**

**Designation of Domestic Representative**

**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 Trial Order -- Standard**

Time to Answer	<b>7/22/2013</b>
Deadline for Discovery Conference	<b>8/21/2013</b>
Discovery Opens	<b>8/21/2013</b>

## TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

Initial Disclosures Due	<b>9/20/2013</b>
Expert Disclosures Due	<b>1/18/2014</b>
Discovery Closes	<b>2/17/2014</b>
Plaintiff's Pretrial Disclosures Due	<b>4/3/2014</b>
Plaintiff's 30-day Trial Period Ends	<b>5/18/2014</b>
Defendant's Pretrial Disclosures Due	<b>6/2/2014</b>
Defendant's 30-day Trial Period Ends	<b>7/17/2014</b>
Plaintiff's Rebuttal Disclosures Due	<b>8/1/2014</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>8/31/2014</b>

### APPENDIX F

#### Sample Trial Order and Briefing With a Counterclaim

Answer to Counterclaim Due	July 12, 2013
Deadline for Discovery Conference	August 11, 2013
Discovery Opens	August 11, 2013
Initial Disclosures Due	September 10, 2013
Expert Disclosures Due	January 8, 2014
Discovery Closes	February 7, 2014
Plaintiff's Pretrial Disclosures	March 24, 2014
30-day testimony period for plaintiff's testimony to close	May 8, 2014
Defendant/Counterclaim Plaintiff's Pretrial Discloser	May 23, 2014
30-day testimony period for defendant and plaintiff in the counterclaim to close	July 7, 2014
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosure Dure	July 22, 2014
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	September 5, 2014
Counterclaim Plaintiff's Rebuttal Disclosures Due	September 20, 2014
15-day rebuttal period for plaintiff in the counterclaim to close	October 20, 2014
Brief for plaintiff due	December 19, 2014
Brief for defendant and plaintiff in the counterclaim due	January 18, 2015
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	February 17, 2015
Reply brief, if any, for plaintiff in counterclaim due	March 4, 2015

### APPENDIX G Sample Trial Order for Interference

Set forth below is a sample trial and briefing schedule for an interference involving parties A, B, C, D, and E, where A is junior to every other party; B is junior to C, D, and E, and senior to A; C is junior to D and E, and senior to A and B; D is junior to E, and senior to A, B, and C; and E is senior to every other party:

THE PERIOD FOR DISCOVERY TO OPEN : January 2, 2003

## TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

THE PERIOD FOR DISCOVERY TO CLOSE : July 2, 2003

30-day testimony period for A to close : August 31, 2003

30-day testimony period for B to close : October 30, 2003

30-day testimony period for C to close : December 31, 2003

30-day testimony period for D to close : March 1, 2004

30-day testimony period for E to close : April 30, 2004

15-day rebuttal testimony period for

A to close : June 14, 2004

15-day rebuttal testimony period for

B to close : July 29, 2004

15-day rebuttal testimony period for

C to close : September 12, 2004

15-day rebuttal testimony period for

D to close : October 28, 2004

Briefs on final hearing (37 CFR 2.128) shall become due as follows:

Brief for A shall be due : December 27, 2004

Brief for B shall be due : January 26, 2005

Brief for C shall be due : February 25, 2005

Brief for D shall be due : March 27, 2005

Brief for E shall be due : April 26, 2005

Reply briefs, if any, shall be due as follows:

Reply brief for A shall be due : May 11, 2005

Reply brief for B shall be due : May 26, 2005

Reply brief for C shall be due : June 10, 2005

# TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

Reply brief for D shall be due : June 25, 2005

## **APPENDIX H Sample Trial Orders for Concurrent Use Proceedings**

Set forth below is a sample trial and briefing 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 an involved application or registration (the trial and briefing 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):

Mailing Date	6/1/2010
Time to Answer	7/11/2010
Deadline for Discovery Conference	8/10/2010
Discovery Opens	8/10/2010
Initial Disclosures Due	9/9/2010
Expert Disclosures Due	1/7/2011
Discovery Closes	2/6/2011
A's Pretrial Disclosures Due	3/23/2011
A's 30-day Trial Period Ends	5/7/2011
B's Pretrial Disclosures Due	5/22/2011
B's 30-day Trial Period Ends	7/6/2011
C's Pretrial Disclosures Due	7/21/2011
C's 30-day Trial Period Ends	9/4/2011
D's Pretrial Disclosures Due	9/19/2011
D's 30-day Trial Period Ends	11/3/2011
E's Pretrial Disclosures Due	11/18/2011
E's 30-day Trial Period Ends	1/2/2012
A's Rebuttal Disclosures Due	1/17/2012
A's 15-day Rebuttal Period Ends	2/16/2012
B's Rebuttal Disclosures Due	3/2/2012
B's 15-day Rebuttal Period Ends	4/1/2012
C's Rebuttal Disclosures Due	4/16/2012
C's 15-day Rebuttal Period Ends	5/16/2012
D's Rebuttal Disclosures Due	5/31/2012
D's 15-day Rebuttal Period Ends	6/30/2012
Briefs on Final Hearing (37 CFR § 2.128)	
shall become due as follows:	
BRIEF FOR A is due	8/29/2012
BRIEF FOR B is due	9/28/2012
BRIEF FOR C is due	10/28/2012
BRIEF FOR D is due	11/27/2012

## TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

BRIEF FOR E is due	12/27/2012
REPLY BRIEFS, if any, shall be due as follows:	
REPLY BRIEF FOR A is due	1/11/2013
REPLY BRIEF FOR B is due	1/26/2013
REPLY BRIEF FOR C is due	2/10/2013
REPLY BRIEF FOR D is due	2/25/2013

Set forth below is another sample trial and briefing 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 proceeding, and Z is a specified concurrent user which does not own an involved application or registration:

Mailing Date	6/1/2010
Time to Answer	7/11/2010
Deadline for Discovery Conference	8/10/2010
Discovery Opens	8/10/2010
Initial Disclosures Due	9/9/2010
Expert Disclosures Due	1/7/2011
Discovery Closes	2/6/2011
X's Pretrial Disclosures Due	3/23/2011
X's 30-day Trial Period Ends	5/7/2011
Y's Pretrial Disclosures Due	5/22/2011
Y's 30-day Trial Period Ends	7/6/2011
Z's Pretrial Disclosures Due	7/21/2011
Z's 30-day Trial Period Ends	9/4/2011
X's Rebuttal Disclosures Due	9/19/2011
X's 15-day Rebuttal Period Ends	10/19/2011
Briefs on Final Hearing (37 CFR § 2.128)	
shall become due as follows:	
BRIEF FOR X is due	12/18/2011
BRIEF FOR Y is due	1/17/2012
BRIEF FOR Z is due	2/16/2012
REPLY BRIEFS, if any, shall be due as follows:	
REPLY BRIEF FOR X is due	3/2/2012

The trial and briefing 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.

## TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE

Set forth below is a sample trial and briefing 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.

Deadline for Discovery Conference	8/10/2010
Discovery Opens	8/10/2010
Initial Disclosures Due	9/9/2010
Expert Disclosures Due	1/7/2011
Discovery Closes	2/6/2011
A's Pretrial Disclosures	3/23/2011
A's 30-day Trial Period Ends	5/7/2011
B's Pretrial Disclosures	5/22/2011
B's 30-day Trial Period Ends	7/6/2011
C's Pretrial Disclosures	7/21/2011
C's 30-day Trial Period Ends	9/4/2011
D's Pretrial Disclosures	9/19/2011
D's 30-day Trial Period Ends	11/3/2011
A's Rebuttal Disclosures	11/18/2011
A's 15-day Rebuttal Period Ends	12/18/2011

With the exceptions noted above, the practices and procedures in cases commenced on or after November 1, 2007 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**

**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**

Applicant hereby appeals to the Trademark Trial and Appeal Board from the decision of the Trademark Examining Attorney refusing registration.

By.....

(Signature)

.....

(Identification of person signing)