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Subject: Rule 655(a)

(1) I think that there is a conflict in the SUPPLEMENTARY INFORMATION. At one point it refers to "an interlocutory order entered by a single administrative patent judge during the interlocutory phase of an interference." At another point it says that "a panel of the Board will resolve the merits of an interference as a panel without deference to any interlocutory order." (Emphasis supplied.) Of course, a panel of the board can enter an interlocutory order. While the actual rule language seems to me to permit a merits panel to reconsider an order entered by an interlocutory panel without giving that order any deference, I think that the SUPPLEMENTARY INFORMATION published when the rule is adopted should make it clear that that is the PTO's intent--particularly in view of the arguably inconsistent language in the SUPPLEMENTARY INFORMATION published to date.

(2) I believe that the purpose of the proposed rule change is to conform the rule to the actual practice of the majority of the administrative patent judges. However, the SUPPLEMENTARY INFORMATION states that "The notice will also make practice within the Board more uniform," which implies that you recognize that not all of the administrative patent judges have been following the general practice. Under the circumstances, I think that it would be desirable to expressly state that you intend the amended rule to be retroactive--that is, to apply to interlocutory orders entered before the date that the amendment becomes effective.

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