

ttab

**IN THE UNITED PATENT & TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

LEO STOLLER
CENTRAL MFG. CO.
P.O. Box 35189
Chicago, IL 60707-0189

Opposition No: 91158582
Trademark: STEALTH RADAR SHIELD
Application SN: 76-467,277
Int. Class No: 09
Filed: November 15, 2002
Published: July 15, 2003

Opposer,
vs.

MARKET AMERICA, INC.
(a North Carolina Corporation)
1302 Pleasant Ridge Road
Greensboro, NC 27409

Applicant.



Box TTAB/ NO FEE

04-12-2004

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #22

**MOTION FOR RECONSIDERATION OF
BOARD ORDER DATED MARCH 26, 2004**

NOW COMES the Opposer and requests the Board to reconsider its decision of March 26, 2004, dismissing Opposition No: 91158582 on the grounds that Opposer's filing fee for the said opposition was not received at the time the opposition was filed. See TBMP §308.01 (2d ed. June 2003), at page 1 of board order.

Prior to changes made in the Second Edition (06Nov2003) of the Trademark Trial and Appeal Board Manual of Procedure, the Rules provided under §309.02 - Insufficient Fee: The required fee for filing an opposition should be submitted with the opposition. However, if no fee, or an insufficient fee, is submitted within thirty days after publication of the mark to be opposed, or within an extension of time to oppose, the defect may be cured as specified in 37 CFR §§2.101(d)(1)-(d)(3).

04/13/2004 6THMAS2 00000052 76467277

01 FC:6402

300.00 DP

The above rule was changed on November 6, 2003, to indicate that unless a fee was received with an opposition, the Board will deny the said opposition. Opposer asserts that the Board's new rule violates the Constitutional rights of the Opposer under the 5th and 14th Amendments of Due Process and Equal Protection. Not allowing a party the opportunity to cure a fee requirement, as was previously the case, clearly is an outrageous violation of the Opposer's Due Process and Equal Protection Rights. The reviewing Court in this case, the


Federal Circuit, allows a party to cure a fee requirement when filing an appeal of a Board decision. It is inconsistent for the lower Court, the TTAB in this instance, to deprive a party, the Opposer in this case, of its Due Process and Equal Protection Rights by depriving the Opposer of its day in court merely because the fee was not paid in conjunction with the opposition through no fault of the Opposer.

BACKGROUND

The Opposer filed its Notice of Opposition by certificate of mailing on November 4, 2003. The rule change notification went into effect according to the Board's web site on November 6, 2003. See attached true and correct copy of Index to Changes of Second Edition (06Nov2003).

The Opposer states that it was not given any notice of the said change to the fee requirement prior to November 4, 2003, the filing date by certificate of mailing of Opposer's Notice of Opposition. Had the Opposer received prior notice, the Opposer would have been in a position to seek a certified check and file by Express Mailing. In view of the fact that the Opposer had not prior notice, the Opposer requests that the Board permit the Opposer to submit the \$300.00 fee with this attached Motion for Reconsideration, as the proper and appropriate fee for Opposition No. 91158582. Opposer asserts that under the circumstances, it is reversal error for the Board to deprive the Opposer of its day in court, and the Opposer will seek an immediate appeal to the Federal Circuit for the relief that it is entitled to.

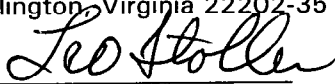
WHEREFORE, Opposer prays that the Board grant the Opposer's Motion for Reconsideration and accept Opposer's \$300.00 filing fee for the opposition. In addition, the Opposer prays that the Board resume the proceedings.

By: 
CENTRAL MFG. CO.
Leo Stoller, President
Trademark & Licensing Dept.
P.O. Box 35189
Chicago, Illinois 60707-0189
773 283-3880 FAX 708 453-0083

Certificate of Mailing

I hereby certify that the foregoing motion is being sent by U.S.
Mail with the United States Postal Service in an envelope addressed to:

Box TTAB/ NO FEE
Assistant Commissioner of Patents and Trademarks,
2900 Crystal Drive,
Arlington, Virginia 22202-3513



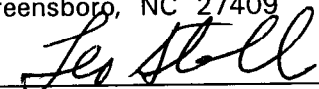
Leo Stoller

Date: April 7, 2004

Certificate of Service

I hereby certify that this motion is being sent by first class
mail with the U. S. Postal Service in an envelope addressed to:

Michelle Pinto
Associate General Counsel
MARKET AMERICA, INC.
1302 Pleasant Ridge Rd.
Greensboro, NC 27409



Leo Stoller

Date: April 7, 2004

D:\MARKS32\MARKET.MOT

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: March 26, 2004

Opposition No. **91158582**

Central Mfg. Co.

v.

Market America, Inc.

Peter Cataldo, Interlocutory Attorney

It is noted that on November 12, 2003, the notice of opposition filed by Central Mfg. Co. to the registration of the mark shown in application Serial No. 76467277 was instituted. However, it has come to the attention of the Board that the opposer's check which was submitted to cover the filing fee was returned for insufficient funds.¹

If an otherwise timely opposition is submitted on paper, and if the opposition is not accompanied by any fee or a sufficient fee to pay for one person to oppose the registration of a mark in at least one class, the opposition will be rejected. See Trademark Rule 2.101(d)(3)(i). See also TBMP §308.01 (2d ed. June 2003) and the authorities cited therein.

¹ A copy of opposer's returned check is enclosed herewith.

In this case, the notice of opposition was not accompanied by any fee as a result of opposer's check being returned for insufficient funds.

Accordingly, the opposition is hereby vacated and dismissed as a nullity.²

*By the Trademark Trial
and Appeal Board*

² In view thereof, all outstanding motions and matters therein are moot.



**Trademark Trial and Appeal Board Manual of Procedure (TBMP)
Second Edition - June 11, 2003
First Revision - March 12, 2004**

The Trademark Trial and Appeal Board Manual of Procedure (TBMP) is provided to you in two ways:

1. The full electronic file of the master document in PDF format, provided to you here -

DOWNLOAD> [TBMP Master Document \[PDF - 7.62 MB\]](#) (12March2004)

2. Sixteen separate PDF files, each representing a logical component, or chapter, from the master document. These files are accessible from the table below.

| File Description | Last Update | File Size | File Name |
|--|-------------|-----------|--------------------------|
| Title Page, Preface, Introduction, & Table of Contents | 03/12/04 | 134 kb | toc.pdf |
| Chapter 100 General Information | 03/12/04 | 783 kb | 100.pdf |
| Chapter 200 Extensions of Time to Oppose | 03/12/04 | 529 kb | 200.pdf |
| Chapter 300 Pleadings | 03/12/04 | 1.06 mb | 300.pdf |
| Chapter 400 Discovery | 03/12/04 | 906 kb | 400.pdf |
| Chapter 500 Stipulations and Motions | 03/12/04 | 1.86 mb | 500.pdf |
| Chapter 600 Withdrawal; Settlement | 03/12/04 | 360 kb | 600.pdf |
| Chapter 700 Trial Procedure and Introduction of Evidence | 03/12/04 | 1.34 mb | 700.pdf |
| Chapter 800 Briefs on Case, Oral Hearing, Final Decision | 03/12/04 | 286 kb | 800.pdf |
| Chapter 900 Review of Decision of Board | 03/12/04 | 413 kb | 900.pdf |
| Chapter 1000 Interferences | 03/12/04 | 193 kb | 1000.pdf |
| Chapter 1100 Concurrent Use Proceedings | 03/12/04 | 624 kb | 1100.pdf |
| Chapter 1200 Ex Parte Appeals | 03/12/04 | 909 kb | 1200.pdf |
| Appendix of Forms | 03/12/04 | 279 kb | forms_appendix.pdf |
| Table of Authorities | 03/12/04 | 1015 kb | table_of_authorities.pdf |
| Index of Subject Matter | 03/12/04 | 1.01 mb | subject_index.pdf |

The following files apply to both the full version and separated version of the TBMP:

- [Index to Changes in Second Edition \(06Nov2003\)](#)
- [Index to Changes in Second Edition, First Revision \(12March2004\)](#)

Please report any problems with these files to TTAB at 703-308-9330.

These files require Adobe Acrobat Reader 4 or newer. You can [download the free reader here](#).

KEY: =online business system =fees =forms =help =laws/regulations =definition (glossary)

Is there a question about what the USPTO can or cannot do that you cannot find an answer for? Send questions about USPTO programs and services to the USPTO Contact Center (UCC). You can suggest USPTO webpages or material you would like featured on this section by E-mail to the webmaster@uspto.gov. While we cannot promise to accommodate all requests, your suggestions will be considered and may lead to other improvements on the website.

INDEX TO CHANGES IN SECOND EDITION

| TBMP SECTION | NATURE OF CHANGE |
|--------------|------------------|
|--------------|------------------|

| | | |
|-------------|--|--|
| 101.04 | Commissioner's Orders and Notices | Renamed Director's Orders and Notices |
| 111 | Certificate of Mailing by "Express Mail" Procedure | Renamed "Express Mail" Procedure |
| 111.02 | Requirements for Certificate | Renamed Requirements for "Express Mail" |
| 111.03 | Location of Certificate [re "Express Mail"] | Deleted |
| 111.04 | Suggested Format [re "Express Mail"] | Deleted |
| 111.05 | Questionable Date of Mailing | Renumbered 111.03 |
| 118.05 | Method of Payment-Coupons | Deleted |
| 120 | Proceeding Files and Exhibits | Deleted |
| 120.01 | Description of Files | Deleted |
| 120.02 | Storage of Files & Exhibits | Deleted |
| 120.03 | Storage of Confidential Materials | Deleted |
| 121 | Access to Files | Renumbered 120 |
| 121.01 | Nonconfidential Files | Renumbered 120.01 |
| 121.02 | Confidential Materials | Renumbered 120.02 |
| 121.03 | Files of Terminated Proceedings | Renumbered 120.03 |
| 122 | Copying of Files | Renumbered 121 |
| 123 | Certification | Renumbered 122 |
| 123.01 | Court Requirements | Renumbered 122.01 |
| 123.02 | Certified Copies | Renumbered 122.02 |
| 123.03 | Verified Copies | Deleted |
| 124 | Application and Registration Status Information | Renumbered 123; renamed Status Information for Applications, Registrations and Board Proceedings |
| 125 | Action by Assignee | Renumbered 124 |
| | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 202.03 | Late-mailed Official Gazette | Deleted |
| 202.04 | Premature Request | Renumbered 202.03 |
| 202.05 | Late Request | Renumbered 202.04 |
| 203.02 | Identifying Information | Broken into 203.02(a) In General and 203.02(b) Requirement for Identification of Potential Opposer |
| 206 | Identification of Potential Opposer | Renamed Who May File an Extension of Time to Oppose |
| 206.01(old) | Requirement for Identification | Renumbered 203.02(b); title expanded: Requirement for Identification of Potential Opposer |
| 206.01(new) | General Rule | New introductory section; includes information previously in old 206.02 |
| 206.03 | Misidentification | Title expanded: Misidentification of Potential Opposer |
| 207 | Requirements for Showing of Cause | Title expanded: Requirements for Showing of Cause; Extraordinary Circumstances |
| 209.01 | Obtaining Application File | Deleted |

| | | |
|-----------------|---|---|
| 209.02 | Notification of Action on Request | Deleted |
| 209.03 | Grant or Denial of Extensions – General Policy | Renumbered 209.01; new title: Suspension; Grant or Denial of Extensions – General Policy; Broken into 209.01(a) Suspension Policy and 209.01(b) Grant or Denial of Extensions |
| 209.01(a) (new) | Suspension Policy | New section; new practice [Board no longer suspends time to file opposition] |
| 209.04 | Determination of Extension Expiration Date | Renumbered 209.02 |
| 211.02 (old) | Petition to the Commissioner | Renumbered 211.03; renamed Petition to the Director; substantially revised |
| 211.02 (new) | Relief After Institution of Opposition | New section and title |
| 212 - 216 (new) | | Revised to reflect new practice regarding suspension |
| 212.05 (old) | Action by Board – After Consideration of Amendment | Renumbered 212.06; expanded title: Action by Board --After Consideration of Amendment by Examining Attorney |
| 212.05 (new) | Action by Board – During Consideration of Amendment by Examining Attorney | New section and title |
| 212.06 | Amendment During Opposition | Renumbered 212.07 |
| 220 (new) | Inadvertent Issuance of a Notice of Allowance | New section and title |
| | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 301 (old) | Commencement of Proceeding | Renumbered 302 |
| 301 (new) | Types of Board Proceedings | New section and title |
| 302 | Mark on Supplemental Register not Subject to Opposition | Incorporated as subparagraph of 301 |
| 303.05(c) | Misidentification | Title expanded: Misidentification of Opposer |
| 303.06 (new) | Joint Opposers or Petitioners | New subsection of 303 (Who May Oppose or Petition to Cancel); former 304 |
| 304 | Joint Opposers or Petitioners | Deleted; Renumbered 303.06 as new subsection of 303 (Who May Oppose or Petition to Cancel) |
| 305 | Proceeding Against Multiple Class Application or Registration | Renumbered 304 |
| 306 | Consolidated and Combined Complaints | Renumbered 305 |
| 307 | Time for Filing Opposition | Renumbered 306 |
| 307.01 | In General | Renumbered 306.01 |
| 307.02 | Date of Publication of Mark | Renumbered 306.02 |
| 307.03 | Premature Opposition | Renumbered 306.03 |
| 307.04 | Late Opposition | Renumbered 306.04 |
| 307.05 - 307.11 | | Deleted; information incorporated in new 212 - 218 |
| 308 (old) | Time for Filing Petition to Cancel | Renumbered 307 |
| 308 (new) | Filing Fees | New heading for section on fees |
| 308.01 | Petition That May be Filed At Any Time after Registration | Renumbered 307.01 |
| 308.02 | Petition that Must be Filed Within Certain Time | Renumbered 307.02; expanded title: Petition that Must be Filed Within Five Years from the Date of Registration |

| | | |
|-------------------|---|--|
| 308.02(a) | In General | Renumbered 307.02(a). Subparagraphs on grounds moved to new 309.03(c) |
| 308.02(b) | Sec. 14 Limitation is Independent of Sec. 15 Affidavit | Renumbered 307.02(b) |
| 308.02(c) | Factors Affecting the Five-Year Period | Renumbered 307.02(c) |
| 308.02(c)(1) | Reliance on Registration by Plaintiff | Renumbered 307.02(c)(1) |
| 308.02(c)(2) | Amendment of Registration | Renumbered 307.02(c)(2) |
| 308.03 (old) | Premature Petition to Cancel | Renumbered 307.03 |
| 308.03 (new) | Fees for Joint Opposers or Petitioners | New section and title; includes information previously in old 304 |
| 308.04 (old) | Late Petition to Cancel | Renumbered 307.04 |
| 308.04 (new) | Fees for Proceeding against Multiple Class Application or Registration | New section and title; includes information previously in old 305 |
| 308.05 (new) | Fees for Consolidated and Combined Complaints | New section and title; includes information previously in old 306 |
| 309 (old) | Fee for Filing Opposition | Renumbered 308.01 |
| 309 (new) | Form and Content of Oppositions and Petitions to Cancel | Title expanded; former 312 |
| 309.01 (old) | In General [re Fee for Filing Opposition] | Renumbered 308.01(a) |
| 309.01 (new) | In General [re Form and Content of Oppositions and Petitions to Cancel] | New section; includes information previously in old 312.01 |
| 309.02 (old) | Insufficient Fee | Renumbered 308.01(b) |
| 309.02 (new) | Form of Complaint | New subheading; no text |
| 309.02(a) (new) | Format for Complaint | New section; includes information previously in old 312.01 |
| 309.02(b) (new) | Signature | New section and title; includes information previously in old 312.01 |
| 309.02(c) (new) | Complaint Must be Filed in Duplicate | New section and title; includes information previously in old 312.01 |
| 309.03 (new) | Substance of Complaint | Former 312.03; renamed; includes information previously in old 308.02(a), 311, and 312.03 |
| 309.03(a) (new) | In General [re Substance of Complaint] | New subheading; no text |
| 309.03(a)(1)(new) | Scope of Opposition and Petition to Cancel | New subsection of 309.03 (Substance of Complaint); includes portions of old 311 |
| 309.03(a)(2) | Elements of Complaint - In General | New section and title; includes information previously in old 312.03 |
| 309.03(b) (new) | Standing | New section and title |
| 309.03(c) (new) | Grounds | New section and title; includes information previously in old 308.02(a) |
| 309.03(d) (new) | Remedy Under Section 18 (Partial Opposition or Partial Cancellation) | New section and title; includes information previously in old 311 |
| 309.04 (new) | Defects in Complaint That May Affect Institution of Proceeding | New subsection of 309 (Form and content of Oppositions and Petitions to Cancel); includes information also found in 119.03 |
| 310 (old) | Fee for Filing Petition to Cancel | Renumbered 308.02 |
| 310 (new) | Notification of Proceeding and Setting Time to Answer | Expanded title; former 315 |

| | | |
|-----------------|---|--|
| 310.01 | In General [re Fee for filing Petition to Cancel] | Renumbered 308.02(a) |
| 310.02 | Fee for Counterclaim | Renumbered 308.02(d) |
| 310.03 | Petition Filed by Federal Trade Commission | Renumbered 308.02(c) |
| 310.04 | Insufficient Fee | Renumbered 308.02(b) |
| 311 | Scope of Opposition and Petition to Cancel | Incorporated into new 309.03 |
| 312 | Form of Opposition and Petition to Cancel | Renumbered 309; title expanded: Form and Content of Oppositions and Petitions to Cancel |
| 312.01 | In General [re Form of Opposition and Petition to Cancel] | Renumbered 309.01; most information moved into 309.02 (Form of Complaint); 309.02(a) (Format for Complaint); 309.02(b) (Signature); and 309.02(c) (Complaint Must be Filed in Duplicate) |
| 312.02 | Suggested Formats for Complaints | Deleted and moved to Appendix of Forms |
| 312.02(a) – (b) | Suggested Format for Notice of Opposition and Suggested Format For Petition to Cancel | Deleted and moved to Appendix of Forms |
| 312.03 | Pleading Substance of Complaint | Renumbered 309.03; renamed Substance of Complaint and broken into subsections: 309.03(a) (In General); 309.03(a)(1) (Scope of Opposition and Petition to Cancel); 309.03(a)(2) (Elements of Complaint-In General); 309.03(b) (Standing); 309.03(c) (Grounds); and 309.03(d) (Remedy Under Section 18 (Partial Opposition or Partial Cancellation)) |
| 313 | Exhibits to Pleadings | Renumbered 317 |
| 314 | FRCP 11 Applicable | Renumbered 318; renamed: Fed. R. Civ. P. 11 Applicable |
| 315 | Notification of Proceeding | Renumbered 310; title expanded: Notification of Proceeding and Setting Time to Answer |
| 315.01 | In General | Renumbered 310.01; new title: Notification of Proceeding |
| 315.02 | Defendant's Copy of Complaint Returned as Undeliverable | Renumbered 310.02 |
| 316 | Time for Filing Answer | Renumbered 310.03; title expanded: Setting Time for Filing Answer |
| 316.01 | In General [re Time for Filing Answer] | Renumbered 310.03(a) |
| 316.02 | Rule 2.119(c) 5-Day Addition Not Applicable to Deadlines Set By Board | Renumbered 310.03(b); title expanded: Trademark Rule 2.119(c) 5-Day Addition Not Applicable to Deadlines Set by Board |
| 316.03 | Extension of Time to File Answer | Renumbered 310.03(c) |
| 317 | Default | Renumbered 312 |
| 317.01 | In General | Renumbered 312.01 |
| 317.02 | Setting Aside Notice of Default | Renumbered 312.02 |
| 317.03 | Setting Aside Default Judgment | Renumbered 312.03 |
| 318 | Form of Answer | Renumbered 311; title expanded: Form and Content of Answer |
| 318.01 | In General | Renumbered 311.01; renamed Form of Answer |
| 318.02 | Pleading Substance of Answer | Renumbered 311.02; renamed Substance of Answer |

| | | |
|-------------------|--|--|
| 318.02(a) | Admissions and Denials | Renumbered 311.02(a) |
| 318.02(b) | Defenses | Renumbered; broken into two sections and renamed Affirmative Defenses (311.02(b)) and Unpleaded Affirmative Defenses (311.02(c)) |
| 318.02(c) | Other Affirmative Pleadings | Renumbered 311.02(d); title expanded: Other Affirmative Defenses – Amplifying Denials |
| 319 | Counterclaims | Renumbered 313 |
| 319.01 | In General | Renumbered 313.01 |
| 319.02 | Fee for Counterclaim | Renumbered 313.02 |
| 319.03 | Form of Counterclaim | Renumbered 313.03; title expanded: Form and Substance of Counterclaim; Service of Counterclaim |
| 319.04 | Compulsory Counterclaims | Renumbered 313.04 |
| 319.05 | Permissive Counterclaims | Renumbered 313.05 |
| 319.06 | Answer to Counterclaim | Renumbered 313.06 |
| 320 | Reply to Answer Should Not be Filed | Renumbered 311.03 |
| 321 | Unpleaded Matters | Renumbered 314 |
| 322 | Amendment of Pleadings | Renumbered 315 |
| 323 | Motions Relating to Pleadings | Renumbered 316 |
| 324 | Amendment to Allege Use; Statement of Use | Renumbered 319 |
| | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 403.04 | Extensions | Title expanded: Extensions of Discovery Period and/or Time to Respond to Discovery |
| 403.05(b) | To Allow Time for Summary Judgment Motion | Deleted |
| 403.05(c) | To Facilitate Introduction of Produced Documents | Renumbered 403.05(b) |
| 404.01 | When and By Whom Taken | Broken into 404.01 (When and By Whom Taken) and 404.02 (Who May be Deposed) |
| 404.02 (old) | Compared to Testimony Depositions | Renumbered 404.09 |
| 404.02 (new) | Who May be Deposed | New section and title; includes information previously in old 404.01 |
| 404.03 (old) | Securing Attendance of Deponent | Expanded title: Place of Deposition; Oral or Written Deposition; Securing Attendance of Deponent |
| 404.03 (new) | Place of Deposition; Oral or Written Deposition; Securing Attendance of Deponent | New section; Expanded title; incorporates information previously in old 404.03 and old 714 |
| 404.03(a) | In General [re Securing Attendance of Deponent] | Deleted and incorporated into new 404.03 |
| 404.03(b) | Person Residing in the United States | Renumbered 404.03(a); expanded title: Person Residing in United States - In General |
| 404.03(b)(1) | Person Residing in United States – Party | Renumbered 404.03(a)(1) |
| 404.03(b)(2) | Person Residing in United States – Nonparty | Renumbered 404.03(a)(2) |
| 404.03(c)(1)(old) | Person Residing in a Foreign Country – Party | Renumbered 404.03(b) |
| 404.03(c)(1)(new) | Willing Nonparty | New subsection and title; incorporates information previously in old 404.03(c)(2) |

| | |
|--|--|
| 404.03(c)(2) (old) Person Residing in a Foreign Country – Nonparty | Renumbered 404.03(c) |
| 404.03(c)(2)(new)Unwilling Nonparty | New section and title; incorporates information previously in old 404.03(c)(2) |
| 404.03(d) (new) Foreign Person Present Within the United States - Party | New section; incorporates information previously in old 404.03(c)(1) |
| 404.03(e) (new) Foreign Person Present Within the United States – Nonparty | New section and title |
| 404.04 (old) Notice of Deposition | Renumbered 404.05 |
| 404.04 (new) Persons before Whom Depositions May be Taken | New section and title; incorporates information previously in old 714.02 |
| 404.05 (old) Taking a Discovery Deposition | Renumbered 404.06 |
| 404.07 (new) Discovery Depositions on Written Questions | New heading |
| 404.07(a) (new) Depositions on Written Questions: Before Whom Taken | New section and title; includes information previously in old 714.02 |
| 404.07(b) (new) Depositions on Written Questions: When Taken | New section and title; includes information previously in old 404.01 |
| 404.07(c) (new) Depositions on Written Questions: Place of Deposition | New section and title; includes information previously in old 404.03(b), 404.03(c), and 404.04 |
| 404.07(d) (new) Depositions on Written Questions: Notice of Deposition | New section and title; includes information previously in old 404.04 |
| 404.07(e) (new) Depositions on Written Questions: Examination of Witness | New section and title; includes information previously in old 714.07 |
| 404.07(f) (new) Depositions on Written Questions: Objections | New section and title; includes information previously in old 714.13 |
| 404.07(g) (new) Depositions on Written Questions: Form of Deposition; Signature | New section and title; includes information previously in old 714.08 |
| 404.07(h) (new) Depositions on Written Questions: Certification of Deposition | New section and title; includes information previously in old 714.10 |
| 404.07(i) (new) Depositions on Written Questions: Service, Correction, and Making the Deposition of Record | New section and title; includes information previously in old 714.11 |
| 404.07(j) (new) Depositions on Written Questions: Utility | New section and title; includes portion of information previously in old 714.15 |
| 405 Discovery Deposition Objections | Renumbered 404.08 |
| 405.01 Objections to Notice | Renumbered 404.08(a) |
| 405.02 Objections to Disqualification of Officer | Renumbered 404.08(b) |
| 405.03 Objections During Deposition | Renumbered 404.08(c) |
| 406 Interrogatories | Renumbered 405 |
| 406.01 When and By Whom Served | Renumbered 405.01 |
| 406.02 Scope | Renumbered 405.02 |
| 406.03 Limit on Number | Renumbered 405.03 |
| 406.03(a) Description of Limit | Renumbered 405.03(a) |
| 406.03(b) Application of Limit: Sets of Interrogatories | Renumbered 405.03(b) |

| | | |
|-----------------|--|---|
| 406.03(c) | Application of Limit: Multiple Marks, Etc. | Renumbered 405.03(c) |
| 406.03(d) | Application of Limit: Counting Interrogatories | Renumbered 405.03(d) |
| 406.03(e) | Remedy for Excessive Interrogatories | Renumbered 405.03(e) |
| 407 | Responses to Interrogatories | Renumbered 405.04 |
| 407.01 | Time for Service of Responses | Renumbered 405.04(a) |
| 407.02 | Nature of Responses | Renumbered 405.04(b) |
| 407.03 | Signature of Responses | Renumbered 405.04(c) |
| 408 | Requests for Production of Documents and Things | Renumbered 406 |
| 408.01 | When and By Whom Served | Renumbered 406.01 |
| 408.02 | Scope | Renumbered 406.02 |
| 408.03 | Elements of Request for Production; Place of Production | Renumbered 406.03 |
| 409 | Responses to Requests for Production | Renumbered 406.04 |
| 409.01 | Time for Service of Responses | Renumbered 406.04(a) |
| 409.02 | Nature of Responses | Renumbered 406.04(b) |
| 410 | Requests for Admission | Renumbered 407 |
| 410.01 | When and by Whom Served | Renumbered 407.01 |
| 410.02 | Scope and Nature of Requests for Admission | Renumbered 407.02 |
| 411 | Responses to Requests for Admission | Renumbered 407.03 |
| 411.01 | Time for Service of Responses | Renumbered 407.03(a) |
| 411.02 | Nature of Responses | Renumbered 407.03(b) |
| 411.03 | Signature of Responses | Renumbered 407.03(c) |
| 411.04 | Effect of Admission | Renumbered 407.04 |
| 412 | Duties to Cooperate, Search Records, Supplement | Renumbered 408 |
| 412.01 (old) | Duty to Cooperate | Renumbered 408.01 |
| 412.01 (new) | In General [re Protective Orders] | New section and title; includes information previously in old 416.01 (Upon Motion) |
| 412.02 (old) | Duty to Search Records | Renumbered 408.02 |
| 412.02 (new) | Protective Order Regarding Confidential and Trade Secret Information | New heading; no text |
| 412.02(a) (new) | Upon Motion | New section; content revised |
| 412.03 | Duty to Supplement Discovery Response | Renumbered 408.03 |
| 413 | Filing Discovery Requests and Responses with Board | Renumbered 409 |
| 414 | Motions Attacking Requests for Discovery | Renumbered 410 and title expanded: Asserting Objections to Requests for Discovery; Motions Attacking Requests for Discovery |
| 415 | Remedy for Failure to Provide Discovery | Renumbered 411 |
| 415.01 | Interrogatories or Requests for Production | Renumbered 411.01 |
| 415.02 | Requests for Admission | Renumbered 411.02 |
| 415.03 | Discovery Depositions | Renumbered 411.03 |

| | | |
|------------------|---|--|
| 416 | Protective Orders | Renumbered 412 |
| 416.01 | Upon Motion | Renumbered 412.02(a); content revised |
| 416.02 | Upon Stipulation | Renumbered 412.03 |
| 416.03 | In Camera Inspection | Renumbered 412.04 |
| 416.04 | Contents of Protective Order | Renumbered 412.05 |
| 416.05 | Signature of Protective Order | Renumbered 412.06 |
| 416.06 | Filing Confidential Materials with Board | Renumbered 412.07 |
| 416.07 | Handling of Confidential Materials by Board | Renumbered 412.08 |
| 417 | Telephone and Pre-Trial Conferences | Renumbered 413 |
| 418 | Discovery Sanctions | Renumbered 411.04 |
| 419 | Discovery Guidelines | Renumbered 414 |
| ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 502.02 (Old) | Form of Motions | Renumbered 502.02(a) |
| 502.02 (new) | Form of Motions and Briefs on Motions | New heading; incorporates old 502.02 and 502.03 |
| 502.02(a)(new) | Form of Motions | New subsection of 502.02; former 502.02 |
| 502.02(b)(new) | Briefs on Motions | New subsection of 502.02; former 502.03 |
| 502.03 | Briefs on Motions | Renumbered 502.02(b) |
| 502.04 | Oral Hearings on Motions | Renumbered 502.03 |
| 502.05 | Determination of Motions | Renumbered 502.04 |
| 502.06 | Attorneys' Fees, Etc., on Motions | Renumbered 502.05 |
| 502.07 | Telephone and Pre-Trial Conferences | Renumbered 502.06 |
| 502.07(a) | Telephone Conferences | Renumbered 502.06(a) |
| 502.07(b) | Pre-Trial Conferences | Renumbered 502.06(b) |
| 502.08 | FRCP 11 Applicable | Renumbered 502.07; renamed Fed. R. Civ. P. 11 Applicable |
| 503.04 | Matters Outside the Pleading | Title expanded: Matters Outside the Pleading Submitted on Motion to Dismiss |
| 504.03 | Matters Outside the Pleading | Title expanded: Matters Outside the Pleading Submitted on Motion for Judgment on Pleadings |
| 507.02 | Amendments--General Rule--FRCP 15(a) | Title expanded: Amendments--General Rule--Fed. R. Civ. P. 15(a); broken into subsections 507.02(a) and 507.02(b) |
| 507.02(a)(new) | Timing of Motion to Amend Pleading--In General | New section and title; includes information previously in 507.02 |
| 507.02(b)(new) | Timing of Motion to Amend Pleadings to Add Counterclaim | New section and title; includes information previously in 507.02 |
| 507.03 | Amendments to Conform to the Evidence--FRCP 15(b) | Title expanded: Amendments to Conform to the Evidence--Fed. R. Civ. P. 15(b) |
| 509.01 | Nature of Motions | Broken into subsections 509.01(a) and 509.01(b) |
| 509.01(a)(new) | Motions to Extend Time | New section and title; includes information previously in 509.01 |
| 509.01(b)(new) | Motions to Reopen Time | New section and title; includes information previously in 509.01 |
| 509.02 | Form and Determination of Motions | Title expanded: Form and Determination of Motions to Extend or Reopen |
| 510.02 | Suspension Pending Outcome of Another Proceeding | Title expanded: Suspension Pending Outcome of Another Proceeding; Resumption |

| | | |
|----------------|---|--|
| 510.03 | Suspension for Other Reasons | Title expanded: Suspension for Other Reasons; Resumption |
| 517.01 | Brief in Support of, or in Opposition to, Motion | Deleted; incorporated in 517 |
| 517.02 | Reply Brief on Motion | Deleted; incorporated in 517 |
| 523.04 | Failure to File Motion | Title expanded: Failure to File Motion to Compel |
| 527 (old) | Motion for Discovery Sanctions | Renumbered 527.01 as subsection of new 527 |
| 527 (new) | Motion for Sanctions | New heading |
| 527.01 | For Failure to Comply with Board Discovery Order | Renumbered 527.01(a) |
| 527.02 (old) | If Party Says it Will Not Respond to Discovery Request | Renumbered 527.01(b) |
| 527.02 (new) | Motion for Fed. R. Civ. P. 11 Sanctions | New section; includes information previously in old 529 |
| 527.03 (old) | Untimely Response to Discovery Requests | Renumbered 527.01(c) |
| 527.03 (new) | Inherent Authority to Sanction | New section and title; includes information previously in old 529.02 |
| 527.04 | In the Case of Requests for Admission | Renumbered 527.01(d) |
| 527.05 | Estoppel Sanction | Renumbered 527.01(e) |
| 528.05(e)(old) | Testimony From Another Proceeding | Renumbered 528.05(f) |
| 528.05(e)(new) | Printed Publications and Official Records | New section and title; includes information about Internet materials |
| 528.07(a) | Not Basis for Summary Judgment | Title expanded: Not Basis for Entering or Avoiding Summary Judgment |
| 529 | Motion for FRCP 11, or Other Non-Discovery, Sanctions | Deleted; incorporated in new 527.02 and 527.03 |
| 529.01 | FRCP 11 Sanctions | Deleted; renumbered 527.02 as subsection of new 527 (Motion for Sanctions); expanded title: Fed. R. Civ. P. 11 Sanctions |
| 529.02 | Other Non-Discovery Sanctions | Deleted; renumbered 527.02 as subsection of new 527 (Motion for Sanctions); new title: Inherent Authority to Sanction |
| 530 | Motion to Offer Discovery Deposition of Self or Nonparty | Renumbered 529 |
| 531 | Motion to Use Testimony from Another Proceeding | Renumbered 530 |
| 532 | Motion that Deposition Upon Written Questions be Taken Orally | Renumbered 531 |
| 533 | Motion to Strike Notice of Reliance | Renumbered 532 |
| 534 | Motion to Strike Trial Testimony Deposition | Renumbered 533 |
| 534.01 | On Ground of Untimeliness | Renumbered 533.01 |
| 534.02 | On Ground of Improper or Inadequate Notice | Renumbered 533.02 |
| 534.03 | When Motion to Strike Should Not be Filed | Renumbered 533.03 |
| 535 | Motion for Judgment for Plaintiff's Failure to Prove Case | Renumbered 534 |
| 535.01 | In General | Renumbered 534.01 |

| | | |
|------------------|---|--|
| 535.02 | Motion for Judgment Under Rule 2.123(a) | Renumbered 534.02 |
| 535.03 | Motion for Judgment Under Rule 2.132(b) | Renumbered 534.03 |
| 535.04 | Motion Under FRCP 41(b) or FRCP 50(a) Not Available | Renumbered 534.04; title expanded: Motion Under Fed. R. Civ. P. 41(b) or Fed. R. Civ. P. 50(a) |
| 536 | Motion for Order to Show Cause Under Rule 2.134(b) | Renumbered 535 |
| 537 | Motion for Order to Show Cause Under Rule 2.128(a)(3) | Renumbered 536 |
| 538 | Motion for Leave to Exceed Page Limit for Brief on Case | Renumbered 537 |
| 539 | Motion for Leave to File Amicus Brief | Renumbered 538 |
| 540 | Motion to Strike Brief on Case | Renumbered 539 |
| 541 | Motion for Augmented Panel Hearing | Renumbered 540 |
| 542 | Motion to Change Oral Hearing Date; For Additional Time | Renumbered 541 |
| 542.01 | Motion to Change Oral Hearing Date | Renumbered 541.01 |
| 542.02 | Motion for Additional Time for Oral Argument | Renumbered 541.02 |
| 543 | Motion for Leave to Audiotape Oral Hearing | Renumbered 542 |
| 544 | Motion for Reconsideration of Final Decision | Renumbered 543 |
| 545 | Motion for Relief from Final Judgment | Renumbered 544 |
| ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| Chapter 600 | | No Section Changes |
| ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| Chapter 700 | Introduction of Evidence | Title expanded: Trial Procedure and Introduction of Evidence |
| 702 | Manner of Trial | Title expanded: Manner of Trial and Introduction of Evidence – In General |
| 703 (old) | Applications and Registrations | Renumbered 704.03 |
| 703 (new) | Taking and Introducing Testimony | New introductory heading; includes information previously in old 713 and 714 |
| 703.01 | Subject of Proceeding | Renumbered 704.03(a) |
| 703.02 | Registration Not Subject of Proceeding | Renumbered 704.03(b)(1) |
| 703.02(a) | Registration Owned By Party | Renumbered 704.03(b)(1)(A) |
| 703.02(b) | Third-Party Registration | Renumbered 704.03(b)(1)(B) |
| 703.03 | Application Not Subject of Proceeding | Renumbered 704.03(b)(2) |
| 703.02(h)(new) | Depositions on Written Questions: Form, Signature and Certification of Deposition | New section and title incorporating old 714.08, 714.09 and 714.10 |
| 704 (old) | Statements and Things in Application or Registration | Renumbered 704.04 |
| 704 (new) | Introducing Other Evidence | New introductory heading; includes information previously in old 703 - 712. |

| | | |
|--------------------|--|--|
| 704.01 (new) | In General [re Introducing Other Evidence] | New section and title |
| 704.02 (new) | Notice of Reliance Generally | New section and title |
| 704.03(b)(new) | Not subject of Proceeding - In General [re Applications and Registrations] | New section and title; includes information previously in old 703.02 - 703.03 |
| 704.12(b)(new) | When Taken | New section and title; incorporates old 712.02 and 712.03 |
| 705 | Exhibits to Pleadings or Briefs | Renumbered 704.05 |
| 705.01 | Exhibits to Pleadings | Renumbered 704.05(a) |
| 705.02 | Exhibits to Briefs | Renumbered 704.05(b) |
| 706 | Statements in Pleadings or Briefs | Renumbered 704.06 |
| 706.01 | Statements in Pleadings | Renumbered 704.06(a) |
| 706.02 | Statements in Briefs | Renumbered 704.06(b) |
| 707 | Official Records | Renumbered 704.07 |
| 707.02(a)(new) | In General [re Objections to Notices of Reliance] | New section and title; includes information previously in old 718.02(a) |
| 707.02(b)(new) | On Procedural Grounds [re Objections to Notices of Reliance] | New section and title; includes portion of old 718.02(b) |
| 707.02(b)(1)(new) | On Ground of Untimeliness [re Objections to Notices of Reliance] | Former 718.02(a); moved to subsection of new 707.02(b) (On Procedural Grounds) |
| 707.02(b)(2) (new) | On Other Procedural Grounds [re Objections to Notices of Reliance] | Former 718.02(b); moved to subsection of new 707.02(b) (On Procedural Grounds) |
| 707.03(a) (new) | In General [re Objections to Trial Testimony Depositions] | New section and title; includes portion of old 718.03(c) |
| 707.03(b) (new) | On Procedural Grounds [re Objections to Trial Testimony Depositions] | New heading |
| 707.03(b)(1) (new) | On ground of Untimeliness [re Objections to Trial Testimony Depositions] | Former 718.03(a); moved to subsection of new 707.03(b) (On Procedural Grounds) |
| 707.03(b)(2) (new) | On Ground of Improper or Inadequate Notice | Former 718.03(b); moved to subsection of new 707.03(b) (On Procedural Grounds) |
| 708 | Printed Publications | Renumbered 704.08 |
| 709 | Discovery Depositions | Renumbered 704.09 |
| 710 | Interrogatory Answers; Admissions | Renumbered 704.10 |
| 711 | Produced Documents | Renumbered 704.11 |
| 712 | Judicial Notice | Renumbered 704.12 |
| 712.01 | Kind of fact Which may be Judicially Noticed | Renumbered 704.12(a) |
| 712.02 | When Discretionary | Title deleted; information incorporated into new 704.12(b) (When Taken) |
| 712.03 | When Mandatory | Title deleted; information incorporated into new 704.12(b) (When Taken) |
| 712.04 | Opportunity to be Heard | Renumbered 704.12(c) |
| 712.05 | Time of Taking Notice | Renumbered 704.12(d) |
| 713 | Oral Depositions | Renumbered 703.01; title expanded: Oral Testimony Depositions |
| 713.01 | In General | Renumbered 703.01(a) |

| | | |
|-----------|---|--|
| 713.02 | Form of Testimony | Renumbered 703.01(b) |
| 713.03 | Time for Taking Testimony | Renumbered 703.01(c) |
| 713.04 | Time and Place of Deposition | Renumbered 703.01(d) |
| 713.05 | Notice of Deposition | Renumbered 703.01(e) |
| 713.06 | Securing Attendance of Unwilling Witness | Renumbered 703.01(f); title expanded: Securing Attendance of Unwilling Adverse Party or Nonparty |
| 713.06(a) | In general | Renumbered 703.01(f)(1) |
| 713.06(b) | Unwilling Witness Residing in United States | Renumbered 703.01(f)(2) |
| 713.06(c) | Unwilling Witness Residing in Foreign Country | Renumbered 703.01(f)(3) |
| 713.07 | Persons Before Whom Depositions May be Taken | Renumbered 703.01(g) |
| 713.08 | Examination of Witnesses | Renumbered 703.01(h) |
| 713.09 | Form of Deposition | Renumbered 703.01(i) |
| 713.10 | Signature of Deposition by Witness | Renumbered 703.01(j) |
| 713.11 | Certification and Filing of Deposition by Officer | Renumbered 703.01(k); title changed: Certification and Filing of Deposition |
| 713.12 | Testimony Deposition Must be Filed | Renumbered 703.01(l) |
| 713.13 | Service of Deposition | Renumbered 703.01(m) |
| 713.14 | Correction of Errors in Deposition | Renumbered 703.01(n) |
| 713.15 | Objections to Testimony Depositions | Renumbered 703.01(o) |
| 713.16 | Confidential or Trade Secret Material | Renumbered 703.01(p) |
| 714 | Depositions Upon Written Questions | Renumbered 703.02; title changed and expanded: Testimony Depositions on Written Questions |
| 714.01 | When Available | Renumbered 703.02(a); title expanded: Depositions on Written Questions: When Available |
| 714.01(a) | For Testimony | Heading deleted |
| 714.01(b) | For Discovery | Section and title deleted; information moved to new 404.07 (Discovery Depositions on Written Questions) |
| 714.02 | Persons Before Whom Depositions May be Taken | Renumbered 703.02(b); title changed: Depositions on Written Questions: Before Whom Taken |
| 714.03 | Securing Attendance of Unwilling Witness | Renumbered 703.02(f); title expanded: Depositions on Written Questions: Securing Attendance of Unwilling Witness |
| 714.04 | Time for Taking deposition | Renumbered 703.02(c); title changed: Depositions on Written Questions: When Taken |
| 714.05 | Place of Deposition | Renumbered 703.02(d); title expanded: Depositions on Written Questions: Place of Deposition |
| 714.06 | Notice of Deposition | Renumbered 703.02(e); title expanded: Depositions on Written Questions: Notice of Deposition |
| 714.07 | Examination of Witness | Renumbered 703.02(g); title expanded: Depositions on Written Questions: Examination of Witness |

| | | |
|-----------|---|---|
| 714.08 | Form of Deposition | Renumbered 703.02(h); incorporated under new title: Depositions on Written Questions: Form, Signature and Certification of Deposition |
| 714.09 | Signature of deposition by Witness | Renumbered 703.02(h); incorporated under new title: Depositions on Written Questions; Form, Signature and Certification of Deposition |
| 714.10 | Certification of Deposition | Renumbered 703.02(h); incorporated under new title: Depositions on Written Questions; Form, Signature and Certification of Deposition |
| 714.11 | Service, Correction, and Filing of Deposition | Renumbered 703.02(i) title expanded: Depositions on Written Questions: Service, Correction, and Filing of Deposition |
| 714.12 | Testimony Deposition Must be Filed | Renumbered 703.02(j); title changed: Testimony Depositions on Written Questions Must be Filed |
| 714.13 | Objections to Deposition | Renumbered 703.02(k); title expanded: Depositions on Written Questions: Objections to Deposition |
| 714.14 | Confidential or Trade Secret Material | Renumbered 703.02(l); title expanded: Depositions on Written Questions: Confidential or Trade Secret Material |
| 714.15 | Utility | Renumbered 703.02(m); title expanded: Depositions on Written Questions: Utility |
| 715 | Testimony From Another Proceeding | Renumbered 704.13 |
| 716 | Stipulated Evidence | Renumbered 705 |
| 717 | Noncomplying evidence | Renumbered 706 |
| 718 | Objections to Evidence | Renumbered 707 |
| 718.01 | In General | Renumbered 707.01 |
| 718.02 | Objections to Notices of Reliance | Renumbered 707.02 and broken into 707.02(a) (In General); 707.02(b) (On Procedural Grounds); and 707.02(c) (On Substantive Grounds) |
| 718.02(a) | On ground of Untimeliness | Renumbered 707.02(b)(1) as subsection of new 707.02(b) [Objections to Notices of Reliance] On Procedural Grounds |
| 718.02(b) | On Other Procedural Grounds | Renumbered 707.02(b)(2) as subsection of new 707.02(b) [Objections to Notices of Reliance] On Procedural Grounds |
| 718.02(c) | On Substantive Grounds | Renumbered 707.02(c) |
| 718.03 | Objections to Trial Testimony Depositions | Renumbered 707.03 and broken into new subsections including 707.03(a) (In General); 707.03(b) (On Procedural Grounds); and 707.03(c) (On Other Procedural Grounds and on Substantive Grounds) |
| 718.03(a) | On Ground of Untimeliness | Renumbered 707.03(b)(1) as subsection of new 707.03(b) [Objections to Trial Testimony Depositions] On Procedural Grounds |
| 718.03(b) | On Ground of Improper or Inadequate Notice | Renumbered 707.03(b)(2) as subsection of new 707.03(b) [Objections to Trial Testimony Depositions] On Procedural Grounds |
| 718.03(c) | On Other Grounds | Renumbered 707.03(c); expanded title: On Other Procedural Grounds and on Substantive Grounds |
| 718.03(d) | Refusal to Answer Deposition Question | Renumbered 707.03(d) |

| | | |
|---------------------|---|---|
| 718.04 | Waiver of Objection | Renumbered 707.04 |
| | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 802.06 | Audiotaping | Title expanded: Audiotaping and Videotaping |
| | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 905 | Petition to the Commissioner | New title: Petition to the Director |
| 906 (new) | Standards of Review of Board Decisions | New section and title |
| 906.01 (new) | Appeal to Federal Circuit or by Civil Action | New section and title |
| 906.02 (new) | Petition to the Director | New section and title |
| | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| Chapter 1000 | | No Section Changes |
| | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 1101.02 | Context for PTO Determination of Concurrent Rights | Title expanded: Context for USPTO Determination of Concurrent Rights |
| 1101.03 | Bases for Concurrent Registration | Renumbered 1102.02; moved to subsection of Generation of Proceeding; expanded title: Bases for Concurrent Registration --- Board Determination; Court Determination |
| 1102.02 (old) | Requirements for Concurrent Use Application | Renumbered 1103; moved from subsection to heading of new section |
| 1102.02 (new) | Bases for Concurrent Registration -- Board Determination; Court Determination | New section and expanded title; moved to subsection of new 1102 (Generation of Proceeding); includes information previously in old 1101.03 |
| 1102.02(a) | Application Based on Board Determination | Renumbered 1103.01 |
| 1102.02(a)(1) | Application Must Assert Use in Commerce | Renumbered 1103.01(a) |
| 1102.02(a)(2) | Jurisdictional Requirement | Renumbered 1103.01(b) |
| 1102.02(a)(3) | Other Requirements | Renumbered 1103.01(f); most of information moved to separate sections 1103.01(c); 1103.01(d); 1103.01(d)(1); 1103.01(d)(2); 1103.01(d)(3); 1103.01(e) and 1103.01(f). |
| 1102.02(a)(4) | Application Based on Prior Board Decision | Renumbered 1103.02 |
| 1102.02(b) | Application Based on Court Determination | Renumbered 1103.03 |
| 1103 (old) | Parties to Proceeding; Involved Applications, Registrations | Renumbered 1104 |
| 1103 (new) | Requirements for Concurrent Use Application | Moved from subsection to heading |
| 1103.01(c) (new) | Application Must Meet Requirements Applicable to Non-Restricted Application | New section and title; includes information previously in old 1102.02(a)(3) |
| 1103.01(d) (new) | Application Must Identify Nature and Extent of Restriction Sought | New section and title; includes information previously in old 1102.02(a)(3) |
| 1103.01(d)(1) (new) | In General | New section and title; includes information previously in old 1102.02(a)(3) |
| 1103.01(d)(2) (new) | Geographic Restrictions | New section and title; includes information previously in old 1102.02(a)(3) |

| | | |
|---------------------|---|---|
| 1103.01(d)(3) (new) | Mode of Use Restrictions | New section and title; includes information previously in old 1102.02(a)(3) |
| 1103.01(e) (new) | Application Must Identify Excepted Users and Their Asserted Rights | New section and title; includes information previously in old 1102.02(a)(3) |
| 1103.01(f) (new) | Other Requirements | Former 1102.02(a)(3) |
| 1104 | Applications and Registrations Not Subject to Proceeding | Renumbered 1105 |
| 1105 | Commencement of Proceeding | Renumbered 1106 and broken out into: 1106.01; 1106.02; 1105.03; 1106.04; and 1106.05. |
| 1106 | Answer | Renumbered 1107; title expanded: Answer; Default |
| 1106.01 (new) | Marking of Concurrent Use Application | New section and title; includes information previously in old 1105 |
| 1106.02 (new) | Publication of Concurrent Use Application; Opposition Period | New section and title; includes information previously in old 1105 |
| 1106.03 (new) | Obtaining Included Application and Registration Files | New section and title; includes information previously in old 1105 |
| 1106.04 (new) | Preparing Concurrent Use Notices | New section and title; includes information previously in old 1105 |
| 1106.05 (new) | Location Excepted Users | New section and title; includes information previously in old 1105 |
| 1107 | Issue; Burden of Proof | Renumbered 1108; title expanded: Issue in Concurrent Use Proceeding; Burden of Proof |
| 1108 | Conduct of Proceeding | Renumbered 1109 |
| 1109 | Settlement Providing for Concurrent Registration | Renumbered 1110 |
| 1110 | Effect of Abandonment of Involved Application | Renumbered 1111 |
| 1111 | Effect of Adverse Decision in Opposition or Cancellation Proceeding | Renumbered 1112 |
| 1112 | "Conversion" of Opposition to Concurrent Use Proceeding | Renumbered 1113; title expanded: "Conversion" of Opposition or Cancellation Proceeding to Concurrent Use Proceeding; and broken out into 1113.01 and 1113.02. |
| 1113 | Alteration of Restrictions on Concurrent Registrations | Renumbered 1114 |
| 1113.01 (new) | Conversion of Opposition Proceeding | New section and title; includes information previously in old 1112 |
| 1113.01 (new) | Conversion of Cancellation Proceeding | New section and title; includes information previously in old 1112 |
| ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ | | ▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲▲ |
| 1202.05 (new) | Multiple Class Applications | New section and title |
| 1203.02(e) (new) | Material Submitted with Briefs | New section and title |
| 1203.02(f) (new) | Cases Which May be Cited | New section and title |
| 1203.02(g) (new) | Waiver of Claim or Requirement in Brief | New section and title |
| 1205 | Amendment of Application During Appeal | Broken into 1205.01 (In General) and 1205.02 (Request to Divide) |
| 1205.01 (new) | In General [re Amendment of Application During Appeal] | New section and title; includes information previously in 1205 |

| | | |
|---------------|---|---|
| 1205.02 (new) | Request to Divide | New section and title |
| 1208.01 (new) | Evidence from NEXIS Database or Publication | New section and title |
| 1208.02 (new) | Third-Party Registrations | New section and title |
| 1208.03 (new) | Internet Material | New section and title |
| 1208.04 (new) | Judicial Notice | New section and title |
| 1209 | Remand for New Refusal or New Requirement | Title changed: Remand |
| 1209.04 (new) | Upon Request by Applicant | New section and title |
| 1213 | Suspension of Appeal | New section on sua sponte suspension by Board pending possible Section 8 cancellation or expiration of cited registration |

PLEADINGS

class or classes in ascending order, beginning with the lowest numbered class and including the number of classes in the application for which the fees submitted are sufficient to pay the fee due for each class.

(3) If persons are joined as party opposers, and the fees submitted are sufficient to pay for one person to oppose registration in at least one class but are insufficient for each named party opposer, the Office will issue a written notice allowing the named party opposers until a set time in which to submit the required fee(s) or to specify the opposer(s) to which the submitted fees apply. If the required fee(s) is not submitted, or the specification made, within the time set in the notice, the first named party will be presumed to be the party opposer and additional parties will be deemed to be party opposers to the extent that the fees submitted are sufficient to pay the fee due for each party opposer. If persons are joined as party opposers against the registration of a mark in more than one class, the fees submitted are insufficient, and no specification of opposers and classes is made within the time set in the written notice issued by the Office, the fees submitted will be applied first on behalf of the first-named opposer against as many of the classes in the application as the submitted fees are sufficient to pay, and any excess will be applied on behalf of the second-named party to the opposition against the classes in the application in ascending order.

The rules governing opposition fees are specified in 37 CFR §§2.101(d)(1)-(d)(3). The amount of the required fee is specified in 37 CFR §2.6(a)(17). For information concerning how to pay fees, see 37 CFR §§1.22-1.25, and TBMP §118. For information concerning fee refunds, see 37 CFR §1.26, and TBMP §119.

309.02 Insufficient Fee

The required fee for filing an opposition should be submitted with the opposition. However, if no fee, or an insufficient fee, is submitted within thirty days after publication of the mark to be opposed, or within an extension of time to oppose, the defect may be cured as specified in 37 CFR §§2.101(d)(1)-(d)(3).

310 Fee for Filing Petition to Cancel