UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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ESTTA TRACKING NO: ESTTA791264

NOTICE: CHANGES TO THE TRADEMARK TRIAL AND APPEAL BOARD ("BOARD") RULES OF PRACTICE WILL BE **EFFECTIVE JANUARY 14, 2017**

The USPTO published a Notice of Final Rulemaking in the Federal Register on October 7 2016, at 81 F.R. 69950. It sets forth **several** amendments to the rules that govern inter partes (oppositions, cancellations, concurrent use) and ex parte appeal proceedings.

For complete information, the parties are referred to:

- The Board's home page on the uspto.gov website: http://www.uspto.gov/trademarks-application-process/trademark-trial-and-appeal-board-ttab
- The final rule: http://www.uspto.gov/sites/default/files/documents/81%20FR%2069950.pdf
- A chart summarizing the affected rules and changes: http://www.uspto.gov/sites/default/files/documents/RulesChart_01_14_17.pdf

For **all** proceedings, including those **already in progress on January 14, 2017**, some of the changes are:

- All pleadings and submissions must be filed through ESTTA. Trademark Rules 2.101, 2.102, 2.106, 2.111, 2.114, 2.121, 2.123, 2.126, 2.190 and 2.191.
- Service of all papers must be by email, unless otherwise stipulated. Trademark Rule 2.119.
- Response periods are no longer extended by five days for service by mail. Trademark Rule 2.119.
- Deadlines for submissions to the Board that are initiated by a date of service are 20 days. Trademark Rule 2.119. Responses to motions for summary judgment remain 30 days. Similarly, deadlines for responses to discovery requests remain 30 days.
- All discovery requests must be served early enough to allow for responses prior to the close of discovery. Trademark Rule 2.120. Duty to supplement discovery responses will continue after the close of discovery.

- Motions to compel initial disclosures must be filed within 30 days after the deadline for serving initial disclosures. Trademark Rule 2.120.
- Motions to compel discovery, motions to test the sufficiency of responses or objections, and motions for summary judgment must be filed prior to the first pretrial disclosure deadline. Trademark Rules 2.120 and 2.127.
- Requests for production and requests for admission, as well as interrogatories, are each limited to 75. Trademark Rule 2.120.
- Testimony may be submitted in the form of an affidavit or declaration. Trademark Rules 2.121, 2.123 and 2.125
- New requirements for the submission of trial evidence and deposition transcripts. Trademark Rules 2.122, 2.123, and 2.125.

- For proceedings **filed on or after January 14, 2017**, in addition to the changes set forth above, the Board's notice of institution constitutes service of complaints. Trademark Rules 2.101 and 2.111.

This is only a summary of the significant content of the Final Rule. All parties involved in or contemplating filing a Board proceeding, regardless of the date of commencement of the proceeding, should read the entire Final Rule.

The request to extend time to oppose is granted until **1/21/2017** on behalf of potential opposer **Edible Arrangements, LLC.**

Please do not hesitate to contact the Trademark Trial and Appeal Board at (571)272-8500 if you have any questions relating to this extension.

Note from the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, petition for cancellation, notice of ex parte appeal, and inter partes filings are now available at http://estta.uspto.gov. Images of TTAB proceeding files can be viewed using TTABVue at http://ttabvue.uspto.gov.