

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

wbc

Mailed: March 13, 2017

Cancellation No. 92065051

*Master Inspector Certification  
Board, Inc.*

*v.*

*Phillip Nathan Thornberry*

**Wendy Boldt Cohen, Interlocutory Attorney:**

This case now comes before the Board on:

1. Respondent's motion to suspend filed January 27, 2017; and
2. Petitioner's motion to strike portions of Applicant's answer, filed February 17, 2017.<sup>1</sup>

Respondent's motion to suspend is **granted** as conceded. *See* Trademark Rule 2.127(a).

In view of the Board's order herein, briefing of Petitioner's motion to strike is reset. Respondent has until **April 9, 2017** to file its response to the motion to strike. A reply brief, if any, shall be due pursuant to Trademark Rule 2.127(a). *See* TBMP § 502.02(b) ("A reply brief, if filed, ... shall be filed within 20 days from the date of service of the brief in response to the motion.").

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<sup>1</sup> It has not escaped the Board's notice that Petitioner filed its motion to strike during the time period Respondent noted that it would "out of state and unavailable." 6 TTABVue 2.

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Proceedings otherwise remain suspended pending disposition of Petitioner's motion to strike. The Board will reset dates, as appropriate, upon any resumption of these proceedings.

### New Rules

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

The USPTO published a Notice of Final Rulemaking in the Federal Register on October 7 2016, at 81 Fed. Reg. 69950. It sets forth **several** amendments to the rules that govern *inter partes* (oppositions, cancellations, concurrent use) and ex parte appeal proceedings. A correction to the final rule was published on December 12, 2016, at 81 Fed. Reg. 89382.

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>
- The correction to the final rule: <http://www.uspto.gov/sites/default/files/documents/81%20FR%2089382.pdf>
- A chart summarizing the affected rules and changes: [http://www.uspto.gov/sites/default/files/documents/RulesChart\\_12\\_9\\_16.pdf](http://www.uspto.gov/sites/default/files/documents/RulesChart_12_9_16.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 made by email, unless otherwise stipulated. Trademark Rule 2.119.
- Response periods are no longer extended by five days for service by first-class mail, Priority Mail Express®, or overnight courier. 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.

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- 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 2.105(a) and 2.113(a).

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.