
U.S. Code of Federal Regulations > TITLE 37 C.F.R. — Patents, Trademarks, and Copyrights > CHAPTER I — UNITED STATES PATENT AND TRADEMARK OFFICE, DEPARTMENT OF COMMERCE > SUBCHAPTER A — GENERAL > PART 2 — RULES OF PRACTICE IN TRADEMARK CASES > Procedure in Inter Partes Proceedings

37 C.F.R. § 2.127 Motions.

(a) Every motion must be submitted in written form and must meet the requirements prescribed in §2.126. It shall contain a full statement of the grounds, and shall embody or be accompanied by a brief. Except as provided in paragraph (e)(1) of this section, a brief in response to a motion shall be filed within fifteen days from the date of service of the motion unless another time is specified by the Trademark Trial and Appeal Board, or the time is extended by stipulation of the parties approved by the Board, or upon motion granted by the Board, or upon order of the Board. If a motion for an extension is denied, the time for responding to the motion remains as specified under this section, unless otherwise ordered. Except as provided in paragraph (e)(1) of this section, a reply brief, if filed, shall be filed within fifteen days from the date of service of the brief in response to the motion. The time for filing a reply brief will not be extended. The Board will consider no further papers in support of or in opposition to a motion. Neither the brief in support of a motion nor the brief in response to a motion shall exceed twenty-five pages in length in its entirety, including table of contents, index of cases, description of the record, statement of the issues, recitation of the facts, argument, and summary. A reply brief shall not exceed ten pages in length in its entirety. Exhibits submitted in support of or in opposition to a motion are not considered part of the brief for purposes of determining the length of the brief. When a party fails to file a brief in response to a motion, the Board may treat the motion as conceded. An oral hearing will not be held on a motion except on order by the Board.

(b) Any request for reconsideration or modification of an order or decision issued on a motion must be filed within one month from the date thereof. A brief in response must be filed within 15 days from the date of service of the request.

(c) Interlocutory motions, requests, and other matters not actually or potentially dispositive of a proceeding may be acted upon by a single Administrative Trademark Judge of the Trademark Trial and Appeal Board or by an Interlocutory Attorney of the Board to whom authority so to act has been delegated.

(d) When any party files a motion to dismiss, or a motion for judgment on the pleadings, or a motion for summary judgment, or any other motion which is potentially dispositive of a proceeding, the case will be suspended by the Trademark Trial and Appeal Board with respect to all matters not germane to the motion and no party should file any paper which is not germane to the motion except as otherwise specified in the Board's suspension order. If the case is not disposed of as a result of the motion, proceedings will be resumed pursuant to an order of the Board when the motion is decided.

(e)

(1) A party may not file a motion for summary judgment until the party has made its initial disclosures, except for a motion asserting claim or issue preclusion or lack of jurisdiction by the Trademark Trial and Appeal Board. A motion for summary judgment, if filed, should be filed prior to the commencement of the first testimony period, as originally set or as reset, and the Board, in its discretion, may deny as untimely any motion for summary judgment filed thereafter. A motion under Rule 56(f) of the Federal Rules of Civil Procedure, if filed in response to a motion for summary judgment, shall be filed within thirty days from the date of service of the summary judgment motion. The time for filing a motion under Rule 56(f) will not be extended. If no motion under Rule 56(f) is filed, a brief in response to the motion for summary judgment shall be filed within thirty days from the date of service of the motion unless the time is extended by stipulation of the parties approved by the Board, or upon motion granted by the Board, or upon order of the Board. If a motion for an extension is denied, the time for responding to the motion for summary judgment may remain as specified under this section. A reply brief, if filed, shall be filed within fifteen days from the date of service of the brief in response to the motion. The time for filing a reply brief will not be extended. The Board will consider no further papers in support of or in opposition to a motion for summary judgment.

(2) For purposes of summary judgment only, the Board will consider any of the following, if a copy is provided with the party's brief on the summary judgment motion: written disclosures or

disclosed documents, a discovery deposition or any part thereof with any exhibit to the part that is filed, an interrogatory and answer thereto with any exhibit made part of the answer, a request for production and the documents or things produced in response thereto, or a request for admission and any exhibit thereto and the admission (or a statement that the party from which an admission was requested failed to respond thereto).

(f) The Board will not hold any person in contempt, or award attorneys' fees or other expenses to any party.

[48 FR 23140, May 23, 1983 , as amended at 54 FR 34900, Aug. 22, 1989; 63 FR 48099, Sept. 9, 1998; 63 FR 52159, Sept. 30, 1998; 68 FR 55768, Sept. 26, 2003; 72 FR 42262, Aug. 1, 2007]

Currency

General Information

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