

(2) A petition from an interlocutory order of the Trademark Trial and Appeal Board must be filed by not later than thirty days after the issue date of the order from which relief is requested. Any brief in response to the petition must be filed, with any supporting exhibits, by not later than fifteen days after the date of service of the petition. Petitions and responses to petitions, and any documents accompanying a petition or response under this subsection, must be served on every adverse party pursuant to §2.119.

(f) An oral hearing will not be held on a petition except when considered necessary by the Director.

(g) The mere filing of a petition to the Director will not act as a stay in any appeal or inter partes proceeding that is pending before the Trademark Trial and Appeal Board, nor stay the period for replying to an Office action in an application, except when a stay is specifically requested and is granted or when §§2.63(a) and (b) and 2.65(a) are applicable to an ex parte application.

(h) Authority to act on petitions, or on any petition, may be delegated by the Director.

(i) If the Director denies a petition, the petitioner may request reconsideration, if:

(1) The petitioner files the request by not later than:

(i) Two months after the issue date of the decision denying the petition; or

(ii) Two months after the date of actual knowledge of the decision denying the petition and not later than six months after the issue date of the decision where the petitioner declares under §2.20 or 28 U.S.C. 1746 that it did not receive the decision; and

(2) The petitioner pays a second petition fee under §2.6.

[82 FR 29409, June 29, 2017, as amended at 84 FR 37095, July 31, 2019; 86 FR 64331, Nov. 17, 2021]

§2.147 Petition to the Director to accept a paper submission.

(a) *Paper submission when TEAS is unavailable on the date of a filing deadline.*

(1) An applicant or registrant may file a petition to the Director under this section requesting acceptance of a submission filed on paper if:

(i) TEAS is unavailable on the date of the deadline for the submission specified in a regulation in part 2 or 7 of this chapter or in a section of the Act; and

(ii) The petition is timely filed, pursuant to §2.197 or §2.198, on the date of the deadline.

(2) The petition must include:

(i) The paper submission;

(ii) Proof that TEAS was unavailable on the date of the deadline;

(iii) A statement of the facts relevant to the petition, supported by a declaration under §2.20 or 28 U.S.C. 1746 that is signed by the petitioner, someone with legal authority to bind the petitioner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under §11.14 of this chapter;

(iv) The fee for a petition filed on paper under §2.6(a)(15)(i); and

(v) Any other required fee(s) under §2.6 for the paper submission.

(b) *Certain paper submissions timely filed before the date of a filing deadline.*

(1) An applicant, registrant, or petitioner for cancellation may file a petition to the Director under this section, requesting acceptance of any of the following submissions that was timely submitted on paper and otherwise met the minimum filing requirements, but not processed or examined by the Office because it was not submitted electronically pursuant to §2.21(a), §2.23(a), or §2.111(c)(1), and the applicant, registrant, or petitioner for cancellation is unable to timely resubmit the document electronically by the deadline:

(i) An application seeking a priority filing date with a deadline under section 44(d)(1) of the Act;

(ii) A statement of use filed within the last six months of the period specified in section 1(d)(2) of the Act;

(iii) An affidavit or declaration of continued use or excusable nonuse with a deadline under section 8(a)(3) or section 71(a)(3) of the Act;

(iv) A request for renewal of a registration with a deadline under section 9(a) of the Act;

(v) An application for transformation of an extension of protection into a United States application with a deadline under section 70(c) of the Act; or

(vi) A petition to cancel a registration under section 14 of the Act on the

§ 2.148

37 CFR Ch. I (7–1–23 Edition)

fifth year anniversary of the date of the registration of the mark.

(2) The petition must be filed by not later than two months after the issue date of the notice denying acceptance of the paper filing and must include:

(i) A statement of the facts relevant to the petition, supported by a declaration under § 2.20 or 28 U.S.C. 1746 that is signed by the petitioner, someone with legal authority to bind the petitioner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter;

(ii) A copy of the relevant paper submission and proof that it was timely filed;

(iii) Proof that a sufficient fee accompanied the original paper submission;

(iv) The required fee(s) under § 2.6 for the paper submission; and

(v) The relevant petition fee under § 2.6(a)(15).

(c) *Petition under § 2.146.* If the applicant or registrant is unable to meet the requirements under paragraphs (a) or (b) of this section for filing the petition, the applicant or registrant may submit a petition to the Director under § 2.146(a)(5) to request a waiver of § 2.21(a) or § 2.23(a).

(d) This section does not apply to requirements for paper submissions to the Trademark Trial and Appeal Board except as specified in paragraph (b)(vi).

[84 FR 37095, July 31, 2019]

§ 2.148 Director may suspend certain rules.

In an extraordinary situation, when justice requires and no other party is injured thereby, any requirement of the rules in parts 2, 3, 6, and 7 of this chapter that is not a requirement of the Act may be suspended or waived by the Director.

[84 FR 37096, July 31, 2019]

§ 2.149 Letters of protest against pending applications.

(a) A third party may submit, for consideration and inclusion in the record of a trademark application, objective evidence relevant to the examination of the application for a ground for refusal of registration if the sub-

mission is made in accordance with this section.

(b) A party protesting multiple applications must file a separate submission under this section for each application.

(c) Any submission under this section must be filed no later than 30 days after the date the application is published for opposition under section 12(a) of the Act and § 2.80 of this part. If the subject application cannot be withdrawn from issuance of a registration while consideration of the protest is pending, the protest may be considered untimely.

(d)(1) If the letter of protest is filed before publication of the subject application, the evidence must be relevant to the identified ground(s) for refusal, such that it is appropriate for the examining attorney to consider whether to issue a refusal or make a requirement under the Act or this part.

(2) If the letter of protest is filed on or within 30 days after the date of publication of the subject application, the evidence must establish a prima facie case for refusal on the identified ground(s), such that failure to issue a refusal or to make a requirement would likely result in issuance of a registration in violation of the Act or parts 2 or 7 of this section.

(e) Filing a submission under this section does not stay or extend the time for filing a notice of opposition.

(f) Any submission under this section must be made in writing, filed through TEAS, and include:

(1) The fee required by § 2.6(a)(25);

(2) The serial number of the pending application that is the subject of the protest;

(3) An itemized evidence index that does not identify the protestor or its representatives, does not contain legal argument, and includes:

(i) An identification of the documents, or portions of documents, being submitted as evidence. The submission may not total more than 10 items of evidence in support of a specified ground of refusal and more than 75 total pages of evidence without a detailed and sufficient explanation that establishes the special circumstances that necessitate providing more than 10 items of evidence per refusal ground