

Discovery Conference Checklist

adapted from TBMP 401.01 Discovery Conferences (June 2017) and from Miscellaneous Changes to Trademark Trial and Appeal Board Rules 81 Fed. Reg. 69950 (October 7, 2016), Summary by Rule Number

"The parties are required to schedule and hold a discovery conference by the deadline in the schedule in this order, or as reset by the Board. In the conference, the parties are required to discuss, at a minimum [1-3 below],

[] 1)	the nature and basis of their claims and defenses,	Required
[] 2)	the possibility of promptly settling, or at least narrowing the scope of claims or defenses, and	Required
[] 3)	arrangements for disclosures, discovery, preserving discoverable information and introduction of evidence at trial.	Required
[] 4)	Optional: Additional topics that could promote settlement or efficient adjudication of the Board proceeding including alternative means for adjudication such as the Board's Accelerated Case Resolution (ACR) procedure.	
[] 5)	Optional: stipulations altering disclosure obligations. Reciprocal obligations and progress made in satisfying such obligations should be discussed even after the discovery conference has been held.	
	Other Optional Subject(s) Changes to Procedure in Inter Partes Proceedings Effective January 14, 2017 for all cases (including cases pending prior to 1/14/17)	Section location of rule changes
[] 6)	Stipulations to reschedule pretrial disclosure and trial dates must be filed through ESTTA with the relevant dates set forth and an express statement that all parties agree to the new dates.	2.121(d)
[] 7)	Standard protective order is automatically imposed in inter partes proceedings.	2.116(e) and (g)
[] 8)	All submissions and papers in inter partes cases, except for notices of opposition or petitions to cancel must be served by email unless otherwise stipulated. If not possible because of technical problems or extraordinary circumstances and there is no stipulation, serving party must show by written explanation accompanying the submission or paper that email service was attempted but could not be made.	2.119(a) and (b)
[] 9)	All response dates initiated by a service date are twenty days.	2.119(c)
[] 10)	Proportionality in process and procedure in discovery.	2.120(a)(1)
[] 11)	All discovery requests must be served early enough in the discovery period so that responses will be due no later than the close of discovery.	2.120(a)(3)
[] 12)	The total number of interrogatories which a party may serve on another party, in a proceeding, may not exceed 75, counting subparts, except that the Board may allow additional interrogatories on motion therefor showing good cause, or on stipulation of the parties. See TBMP § 519. Parties may also stipulate that the limit on interrogatories shall be fewer than 75.	2.120(d)
[] 13)	Requests for production are limited to 75 with the option to move for additional requests upon a showing of good cause. If party believes requests exceed allowed	2.120(e)

