

List of Cases, 11/10/2011- 3/2/12
 TBMP Revision 1 of Third Edition
 Sorted by Case Name

CASE NAME	POINT SUMMARY	TBMP §	REFERENCE
American Hygienic Laboratories, Inc. v. Tiffany & Co.	For stated proposition on reverse confusion	309.03(c) N. 52	12 USPQ2d 1979, 1983 n.7 (TTAB 1989)
American Lebanese Syrian Associated Charities, Inc. v. Child Health Research Institute	may indicate that a mark, or portion of a mark, is descriptive or suggestive	704.03(b)(1)(B) N. 8	101 USPQ2d 1022, 1029 (TTAB 2011)
American Lebanese Syrian Associated Charities, Inc. v. Child Health Research Institute	applicant did not indicate the general relevance of opposer's archival website and such relevance is not clear on the face of the submissions	704.08(b) N. 3	101 USPQ2d 1022, 1025 (TTAB 2011)
American Lebanese Syrian Associated Charities, Inc. v. Child Health Research Institute	objection based on failure to indicate relevance to applicant's notice of reliance introducing opposer's archival websites sustained, but applicant may rely on copy of opposer's website made of record by opposer's deposition	704.09 N. 9	101 USPQ2d 1022, 1025 (TTAB 2011)
American Lebanese Syrian Associated Charities, Inc. v. Child Health Research Institute	objection based on failure to indicate relevance to applicant's notice of reliance sustained, but applicant may rely on copy of record by opposer' deposition	704.10 N. 9	101 USPQ2d 1022, 1025 (TTAB 2011)
Benedict v. Super Bakery, Inc.	however, entry of judgment as a sanction for a party's failure to abide by the Board's practice is not supported	510.03(a) N. 10	665 F.3d 1263, 101 USPQ2d 1089, 1092 (Fed. Cir. 2011)
Benedict v. Super Bakery, Inc.	however, entry of judgment as a sanction for a party's failure to abide by the Board's practice is not supported	510.03(a) N. 11	665 F.3d 1263, 101 USPQ2d 1089, 1092 (Fed. Cir. 2011)
Benedict v. Super Bakery, Inc.	because Rule does not expressly state that requirement that no papers be filed does not come into effect when potentially dispositive motion is filed, entry of judgment as a sanction for a party's failure to abide by the Board's practice is not supported	510.03(a) N. 9	665 F.3d 1263, 101 USPQ2d 1089, 1092 (Fed. Cir. 2011)

Benedict v. Super Bakery, Inc.	affirming Board's entry of judgment as a discovery sanction for repeated failures to comply with Board's reasonable orders	527.01(a) N. 6	665 F.3d 1263, 101 USPQ2d 1089, 1093 (Fed. Cir. 2011)
Benedict v. Super Bakery, Inc.	entry of judgment warranted in view of repeated failures to comply with reasonable orders of the Board and not lesser sanction would be effective	527.01(a) N. 7	665 F.3d 1263, 101 USPQ2d 1089, 1093 (Fed. Cir. 2011)
Benedict v. Super Bakery, Inc.	however, entry of judgment as a sanction for a party's failure to abide by the Board's practice is not supported	528.03 N. 2	665 F.3d 1263, 101 USPQ2d 1089, 1092 (Fed. Cir. 2011)
Benedict v. Super Bakery, Inc.	because Rule does not expressly state that requirement that no papers be filed does not come into effect when potentially dispositive motion is filed, entry of judgment as a sanction for a party's failure to abide by the Board's practice is not supported; but entry of judgment as discovery sanction may be considered	528.03 N. 3	665 F.3d 1263, 101 USPQ2d 1089, 1092 (Fed. Cir. 2011)
Blackhorse v. Pro-Football, Inc.	no authority to rule on the constitutionality of the Trademark Act on its face or as applied	102.01 N. 3	98 USPQ2d 1633, 1638 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	no requirement that actual damage be pleaded and proved in order to establish standing or to prevail in the proceeding	309.03(b) N. 6	98 USPQ2d 1633, 1638 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	affirmative defense of secondary meaning interpreted to be an elaboration of respondent's denial of petitioner's allegation that the term is disparaging	311.02(d) N. 1	98 USPQ2d 1633, 1637-38 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	party to refrain from improperly designating evidence or a show cause order may issue	412.01 N. 9	98 USPQ2d 1633, 1635 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	For stated proposition that Board may call pretrial conferences where it has identified cases as being or having the potential to be overly contentious and/or involve creation of excessive records by the parties	502.06(b) N. 1	98 USPQ2d 1633 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	Board exercised its authority to require parties to attend a pretrial	502.06(b) N. 2	98 USPQ2d 1633, 1634

	conference at the Board's offices in Alexandria, VA		(TTAB 2011)
Blackhorse v. Pro-Football, Inc.	with specified exceptions, parties stipulated that all evidence submitted in a previous case by notice of reliance shall be admissible in instant proceeding by a notice of reliance; and that any documents could be submitted by notice of reliance without the other parties waiving its right to make substantive objections	702.04(e) N. 1	98 USPQ2d 1633, 1635 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	Tables of evidence required	702.05 N. 6	98 USPQ2d 1633, 1635-36 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	in pretrial order, party reminded to refrain from improperly designating evidence or a show cause order may issue	703.01(p) N. 7	98 USPQ2d 1633, 1635 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	parties stipulated that any documents could be submitted by notice of reliance without the other parties waiving its right to make substantive objections	705 N. 2	98 USPQ2d 1633, 1635 (TTAB 2011)
Blackhorse v. Pro-Football, Inc.	with specified exceptions, parties stipulated that all evidence submitted in a previous case by notice of reliance shall be admissible in instant proceeding by a notice of reliance	705 N. 4	98 USPQ2d 1633, 1635 (TTAB 2011)
Boston Red Sox Baseball Club LP v. Chaveriat	parties' notice of waiver of initial disclosures approved	401.02 N. 2	87 USPQ2d 1767, 1768 (TTAB 2008)
Byer California v. Clothing for Modern Times Ltd.	("Turning next to applicant's motion to exclude, the motion is not construed as a motion in limine, which the Board does not hear. Rather, under the circumstances of this case, applicant's motion is more akin to a motion to quash a notice of testimonial deposition based on insufficient or unreasonable notice.") (citing <i>Greenhouse Sys. Inc. v. Carson</i> , 37 USPQ2d 1748, 1750 (TTAB 1995))	527.01(f) N. 2	95 USPQ2d 1175, 1178 (TTAB 2010)
Calypso	where respondent did not introduce	309.03(c) N. 44	100 USPQ2d

Technology, Inc. v. Calypso Capital Management LP	evidence of earlier use, petitioner's priority established based on the filing date of the underlying application which matured into its pleaded registration		1213, 1219-20 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	with its supplemental notice of reliance, plaintiff resubmitted the first 25 items listed in its first notice of reliance, needlessly adding bulk to the record and wasting Board resources	702.05 N. 1	100 USPQ2d 1213, 1218 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	discussion of admissibility of evidence included the several affidavits submitted by plaintiff under notice of reliance; evidence, unless otherwise admissible, could not be considered because the parties did not stipulate that testimony could be submitted by affidavit	703.01(b) N. 5	100 USPQ2d 1213, 1216-19 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	summaries of search results for third party registrations are not official records and have not been considered	704.03(b)(1)(B) N. 6	100 USPQ2d 1213, 1217 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	while third party registrations based on use in commerce may suggest listed goods and services are of the type which may emanate from a single source, third party registrations based on international registrations are not evidence that the marks have been used in the United States for the stated goods and services	704.03(b)(1)(B) N. 7 cf	100 USPQ2d 1213, 1221 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	third party registrations for same term are not evidence of use in the marketplace	704.03(b)(1)(B) N. 7 see	100 USPQ2d 1213, 1222 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	electronic versions of the registrations printed from USPTO databases, showing the URL and date they were printed, are official records	704.07 N. 4	100 USPQ2d 1213, 1217, 1219 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	detailed discussion of why certain documents, accompanied by adequate authentication, were admissible and why certain other	704.08(b) N. 1	100 USPQ2d 1213, 1216-1219 (TTAB 2011)

	documents, lacking in specifically-addressed authentication elements, were not admissible		
Calypso Technology, Inc. v. Calypso Capital Management LP	detailed discussion of why certain documents, accompanied by adequate authentication, were admissible and why certain other documents, lacking in specifically-addressed authentication elements, including absent URL's or dates accessed printed, were not admissible	704.08(b) N. 2	100 USPQ2d 1213, 1216-1219 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	For stated proposition that a listing of search engine results is not admissible by notice of reliance	704.08(b) N. 4	100 USPQ2d 1213, 1219 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	Plaintiff's own printed publications and printouts from plaintiff's webpage are not evidence of statements made therein	704.08(c) N. 6	100 USPQ2d 1213, 1220-21 n.14 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	defendant's responses to plaintiff's interrogatories and document requests, but not produced documents	704.10 N. 1	100 USPQ2d 1213, 1222 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	plaintiff introduced its responses to defendant's interrogatories by notice of reliance which were considered only to the extent that defendant submitted the non-confidential portions of plaintiff's responses through its own notice of reliance	704.10 N. 2	100 USPQ2d 1213, 1218 (TTAB 2011)
Calypso Technology, Inc. v. Calypso Capital Management LP	For stated proposition that a discovery response that no documents would be produced is admissible under notice of reliance	704.11 N. 8	100 USPQ2d 1213, 1222 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	no reason to file routinely pretrial disclosures with the Board	409 N.4	98 USPQ2d 1370, 1372-73 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	it is not the Board's policy to read trial testimony or other trial evidence prior to final decision	532 N. 4	98 USPQ2d 1370, 1371-72 n.2 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar &	For stated proposition that a party is to disclose all witnesses it expects to call as well as those it may call if the	533.02(b) N. 4	98 USPQ2d 1370, 1371-72 n.1 (TTAB

Delicatessen, Inc.	need arises		2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	For stated proposition that a party should cross examine a witness under protest and then promptly bring a motion to strike if it believes the pretrial disclosures are improper	533.02(b) N. 7	98 USPQ2d 1370, 1372-73 n.4 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	For stated proposition that, if raised promptly, technical deficiencies with respect to pretrial disclosures may be resolved, either between the parties or with Board intervention, before the parties incur the expense associated with taking a testimonial deposition	533.02(b) N. 9	98 USPQ2d 1370, 1372-73 n.4 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	For proposition that a party may object to improper or inadequate pretrial disclosures and may move to strike the testimony of the witness on such grounds	702.01 N. 10	98 USPQ2d 1370, 1372-73 n.4
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	For stated proposition that a party should cross examine a witness under protest and then promptly bring a motion to strike if it believes the pretrial disclosures are improper	702.01 N. 14	98 USPQ2d 1370, 1372-73 n.4 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	For stated proposition that, if raised promptly, technical deficiencies with respect to pretrial disclosures may be resolved, either between the parties or with Board intervention, before the parties incur the expense associated with taking a testimonial deposition	702.01 N. 16	98 USPQ2d 1370, 1372-73 n.4 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	For the stated proposition that pretrial disclosures need not be filed with the Board	702.01 N. 17	98 USPQ2d 1370, 1372-73 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	For proposition that one purpose of pretrial disclosures is to avoid surprise to the adverse party	702.01 N. 2	98 USPQ2d 1370, 1372 (TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	("A party is expected to disclose all witnesses it expects to call as well as those that it may call if the need arises."	702.01 N. 4	98 USPQ2d 1370, 1371-72 n.1 (TTAB 2011)
Carl Karcher Enterprises, Inc. v.	pretrial disclosure adequate and sufficient	702.01 N. 5	98 USPQ2d 1370, 1371

Carl's Bar & Delicatessen, Inc.			(TTAB 2011)
Carl Karcher Enterprises, Inc. v. Carl's Bar & Delicatessen, Inc.	pretrial disclosure adequate and sufficient	702.01 N. 6	98 USPQ2d 1370, 1371 (TTAB 2011)
Carl Karcher Enters. Inc. v. Carl's Bar & Delicatessen Inc.	("While the pretrial disclosures in court may be important to the resolution of motions in limine handled prior to trial, the Board does not hear and resolve such motions in its practice.")	527.01(f) N. 2	98 USPQ2d 1370, 1372 n.3 (TTAB 2011)
Citigroup Inc. v. Capital City Bank Group Inc.	Aff'd	309.03(c) N. 3	637 F.3d 1344, 98 USPQ2d 1253 (Fed. Cir. 2011)
Citigroup Inc. v. Capital City Bank Group Inc.	Aff'd	309.03(c) N. 30	637 F.3d 1344, 98 USPQ2d 1253 (Fed. Cir. 2011)
Citigroup Inc. v. Capital City Bank Group Inc.	Aff'd	507.03(b) N. 2	637 F.3d 1344, 98 USPQ2d 1253 (Fed. Cir. 2011)
Citigroup Inc. v. Capital City Bank Group Inc.	Aff'd	704.03(b)(1)(A) N. 18	637 F.3d 1344, 98 USPQ2d 1253 (Fed. Cir. 2011)
Citigroup Inc. v. Capital City Bank Group Inc.	Aff'd	704.03(b)(1)(A) N. 2	637 F.3d 1344, 98 USPQ2d 1253 (Fed. Cir. 2011)
Citigroup Inc. v. Capital City Bank Group Inc.	Aff'd	704.03(b)(1)(A) N. 8	637 F.3d 1344, 98 USPQ2d 1253 (Fed. Cir. 2011)
Coach Services Inc. v. Triumph Learning LLC	Aff'd-in-part	309.03(c) N. 30	Slip Op. No. 2011-1129, 101 USPQ2d 1713 (Fed. Cir. 2012)
Coach Services Inc. v. Triumph Learning LLC	Aff'd-in-part	702.02 N. 3	668 F.3d 1356, 101 USPQ2d 1713 (Fed. Cir. 2012)
Coach Services Inc. v. Triumph	Aff'd-in-part	704.07 N. 5	668 F.3d 1356, 101 USPQ2d

Learning LLC			1713, 1718 (Fed. Cir. 2012)
Coach Services Inc. v. Triumph Learning LLC	Aff'd-in-part	704.08(b) N. 1	668 F.3d 1356, 101 USPQ2d 1713 (Fed. Cir. 2012)
Coach Services Inc. v. Triumph Learning LLC	Aff'd-in-part	707.04 N. 1	668 F.3d 1356, 101 USPQ2d 1713 (Fed. Cir. 2012)
Corporacion Habanos S.A. v. Guantanamera Cigars, Co.	opposer received permission from the U.S. Dept. of Treasury to file an application and such application is suspended <i>remanded on other grounds</i> , 729 F.Supp.2d 246, 98 USPQ2d 1078, 1082 (D.D.C. 2010)	309.03(b) N. 10	86 USPQ2d 1473, 1475 (TTAB 2008)
Corporacion Habanos SA v. Guantanamera Cigars Co.	Excessive record on a single issue	110.09(c)(3)	102 USPQ2d 1085, 1091 (TTAB 2012)
Corporacion Habanos SA v. Guantanamera Cigars Co.	reopened for the limited purpose of having the parties address whether a significant portion of the relevant consumers would be materially influenced to purchase the goods by the geographic meaning of the mark	309.03(c) N. 9	102 USPQ2d 1085, 1090-91 (TTAB 2012)
Corporacion Habanos SA v. Guantanamera Cigars Co.	objection that relevance of evidence not identified waived where raised for first time with brief because procedural deficiency could have been cured if objection had been raised seasonably	532 N. 1	102 USPQ2d 1085, 1093 (TTAB 2012)
Corporacion Habanos SA v. Guantanamera Cigars Co.	another case which does not warrant a record of this size	702.05 N. 1	102 USPQ2d 1085, 1091 (TTAB 2012)
Corporacion Habanos SA v. Guantanamera Cigars Co.	not necessary to submit duplicates of material that is already in record	704.05(b) N. 2	102 USPQ2d 1085, 1092 (TTAB 2012)
Corporacion Habanos SA v. Guantanamera Cigars Co.	objection that relevance of evidence not identified waived where raised for first time with brief because procedural deficiency could have been cured if objection had been raised seasonably	707.02 N. 3	102 USPQ2d 1085, 1093 (TTAB 2012)

Corporacion Habanos SA v. Rodriquez	although parties may cite to non-precedential cases, the Board does not encourage the practice	101.03 N. 1	99 USPQ2d 1873, 1875 n.5 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	For stated proposition that allegations of a complaint should be "construed so as to do justice"	309.03(a)(2) N. 12	99 USPQ2d 1873, 1874 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	promoter or manufacturer of goods labeled with the same indication of geographic origin where plaintiff does not have a pending application, is not using the term in the United States, and is not required to being using the term at all	309.03(b) N. 16	99 USPQ2d 1873, 1876 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	as petitioners alleged standing as to at least one ground, primarily geographically deceptively misdescriptive, they may assert any other legally sufficient claims including those under Section 2(a), the Pan American Convention and fraud	309.03(b) N. 17	99 USPQ2d 1873, 1877 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	allegations that term is an appellation of origin for Cuban cigars owned by plaintiff and that plaintiff will be damaged by continued registration of designation is sufficient to allege plaintiff's real interest in the case for standing	309.03(b) N. 2	99 USPQ2d 1873, 1876 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	Cuban entity has sufficiently alleged standing where claims do not require assertion of a property interest, a specific license to cancel the registration was issued by the U.S. State Department to plaintiff, and standing may be rooted in enforceable rights despite the existence of an embargo	309.03(b) N. 3	99 USPQ2d 1873, 1875-76 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	primarily geographically deceptively misdescriptive sufficiently pled	309.03(c) N. 9	99 USPQ2d 1873, 1876 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	For stated standards for reviewing a motion to dismiss	503.02 N 1-3	99 USPQ2d 1873, 1874 (TTAB 2011)
Corporacion Habanos SA v. Rodriquez	Board may consider matters outside the pleading on a motion to dismiss for lack of subject matter jurisdiction	503.04 N. 1	99 USPQ2d 1873-74 n.2

	under Fed. R. Civ. P. 12(b)(1) without converting to a summary judgment		
Corporacion Habanos SA v. Rodriquez	although parties may cite to non-precedential cases, the Board does not encourage the practice	801.03 N. 7	99 USPQ2d 1873, 1875 n.5 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	any opposition to a Section 66(a) application must be filed through ESTTA	110.09(a) N. 2	99 USPQ2d 1959, 1960 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	For stated proposition that any opposition to a Section 66(a) application must be filed through ESTTA	110.09(b) N. 1	99 USPQ2d 1959, 1960 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	any opposition to a Section 66(a) application must be filed through ESTTA	309.01 N. 2	99 USPQ2d 1959, 1960 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	For stated proposition that ESTTA filing form and attached pleading form a single document	309.02(a) N. 1	99 USPQ2d 1959, 1961-62 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	For stated explanation that only info on ESTTA form is sent to WIPO	309.02(a) N. 3	99 USPQ2d 1959, 1960 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	For stated proposition that ESTTA filing form and attached pleading form a single document	309.02(b) N. 3	99 USPQ2d 1959, 1961-62 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	For stated proposition that grounds for an opposition against a Section 66(a) application are limited to those in the ESTTA cover sheet	309.03(a)(1) N. 4	99 USPQ2d 1959, 1962-63 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	For stated proposition that grounds for an opposition against a Section 66(a) application are limited to those in the ESTTA cover sheet	315 N. 5	99 USPQ2d 1959, 1962-63 (TTAB 2011)
CSC Holdings LLC v. SAS Optimhome	Grounds against a 66(a) application limited to those in the ESTTA cover sheet regardless of what is asserted in attached pleading	507.01 N. 6	99 USPQ2d 1959 (TTAB 2011)
Doyle v. Al Johnson's Swedish Restaurant & Butik, Inc.	even assuming petitioner has a "real interest" and "personal stake" in taking photographs of goats on a roof, there is no allegation that respondent's mark prevent petitioner from doing so or how his interest in taking such photographs relates to respondent's services	309.03(b) N. 2	101 USPQ2d 1780, 1782-83 (TTAB 2010)
Doyle v. Al	petitioner's alleged belief that he	309.03(b) N. 4	101 USPQ2d

Johnson's Swedish Restaurant & Butik, Inc.	would be damaged by respondent's registrations is not reasonable		1780, 1783 (TTAB 2010)
Doyle v. Al Johnson's Swedish Restaurant & Butik, Inc.	petitioner failed to relate claim of functionality of goats on a roof to respondent's restaurant and gift shop services	309.03(c) N. 11	101 USPQ2d 1780, 1783-84 (TTAB 2012)
Doyle v. Al Johnson's Swedish Restaurant & Butik, Inc.	For stated proposition that a complaint must state "a claim that is plausible on its face"	503.02 N. 3	101 USPQ2d 1780, 1782 (TTAB 2012)
Drive Trademark Holdings LP v. Inofin and Mark Walsh	Notice of opposition may not be amended to add goods or services	507.01 N. 3	83 USPQ2d 1433 (TTAB 2007)
ERBE Elektromedizin GmbH v. Canady Technology LLC	same legal principles apply to a determination of functionality whether on the Principal Register or Supplemental Register	309.03(c) N. 11	629 F.3d 1278, 97 USPQ2d 1048, 1056-58 (Fed. Cir. 2010)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	For proposition that scope of discovery in Board proceedings is narrower than court proceedings	402.01 N. 5	100 USPQ2d 1904, 1907 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	opposer's failure "to conduct an attorney-supervised ESI retrieval, research and review" does not necessarily mean the discovery efforts were inadequate under the circumstances	402.01 N. 8	100 USPQ2d 1904, 1907 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	For stated proposition concerning proportionality in balancing extent of ESI	402.02 N. 11	100 USPQ2d 1904, 1908 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	opposer not required to start its document production over where parties did not agree on ESI discovery protocol, applicant failed to show opposer's methods were insufficient, and given the nature of the requests and issues involved	402.02 N. 12	100 USPQ2d 1904, 1909 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	representative samples of documents, including ESI, required for certain requests	402.02 N. 2	100 USPQ2d 1904, 1910 (TTAB 2011)
Frito-Lay North America, Inc. v.	opposer established that all of the specific materials applicant sought in	402.02 N. 8	100 USPQ2d 1904, 1910

Princeton Vanguard LLC	response to specified requests was not reasonably accessible because of undue burden or costs		(TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	applicant established that some of the requested documents should be produced before taking depositions	402.02 N. 9	100 USPQ2d 1904, 1910 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	parties agreed only to the form of their ESI production	406.03 N. 1	100 USPQ2d 1904, 1908 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	where the parties only agreed as to form of production, not as to other aspects such as a protocol for identifying and segregating potentially responsive ESI, applicant cannot insist that opposer start its ESI search and production over	406.04(b) N. 7	100 USPQ2d 1904, 1908 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	For stated elements of what should be discussed concerning ESI in a discovery conference	406.04(c) N. 8	100 USPQ2d 1904, 1905 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	where hundreds of thousands of dollars spent, and tens of thousands of documents product, opposer required to produce a representative sample with respect to the specific requests at issue	414 N. 2	100 USPQ2d 1904, 1910 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	For proposition stated in 414(23)	414 N. 31	100 USPQ2d 1904, 1910 (TTAB 2011)
Frito-Lay North America, Inc. v. Princeton Vanguard LLC	For proposition stated in 414(24)	414 N. 32	100 USPQ2d 1904, 1911 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	adoption of disclosure model intended to provide an orderly administration of the proceeding as it moves to trial	401 N. 4	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	party is to disclose its plan to use an expert 30 days before the close of discovery	401.03 N. 1	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of	parties expected to cooperate to resolve problems arising from timely	401.03 N. 6	97 USPQ2d 1890, 1893 n.3

God v. Heritage Music Foundation	but incomplete expert disclosures		(TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	<u>37 CFR § 2.120(a)(2)</u> does not mandate that a disclosing party inform the Board that an expert disclosure has been made	401.03 N. 7	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	The purpose of informing the Board of such a disclosure is to facilitate discovery, but notification to the Board may not be necessary if expert-related discovery can be concluded by the close of discovery	401.03 N. 8	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	in any given case, suspension of proceedings for expert-related discovery may not be necessary	401.03 N. 9	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	For propositions on due dates and suspension of proceedings	408.01(b) N. 6; N. 7; N. 8	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	parties expected to cooperate to resolve problems arising from timely but incomplete expert disclosures	408.01(b) N. 9	97 USPQ2d 1890, 1893 n.3 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	respondent supplemented its expert disclosures as soon as the deficiencies were brought to its attention so Board did not need to consider question of whether the omissions were substantially justified or harmless	408.03 N. 2	97 USPQ2d 1890, 1892 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	deficiencies in timely expert disclosures cured promptly, motion to exclude expert testimony denied	408.03 N. 5	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	For proposition that Board will not exclude expert testimony where prompt supplementation and discovery still open	408.03 N. 6	97 USPQ2d 1890, 1892 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	<u>37 CFR § 2.120(a)(2)</u> does not mandate that a disclosing party inform the Board that an expert disclosure has been made	409 N. 2	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage	The purpose of informing the Board of such a disclosure is to facilitate discovery, including a suspension of	409 N. 3	97 USPQ2d 1890, 1893 (TTAB 2011)

Music Foundation	proceedings, but notification to the Board may not be necessary if expert-related discovery can be concluded by the close of discovery		
General Council of the Assemblies of God v. Heritage Music Foundation	motion to exclude expert testimony denied where timely-served but deficient expert disclosures were promptly supplemented; failure to notify the Board of service of expert disclosure is not a ground to exclude the testimony of the expert witness	527.01(e) N. 4	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	Board does not hear motions in limine; whether expert is qualified cannot be imputed from technical deficiencies in originally served expert disclosure but may be raised later at the appropriate time	527.01(f) N. 2	97 USPQ2d 1890, 1893-94 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	Deadline for expert disclosure	533.02(b) N. 2	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	In support of new second paragraph in text concerning the Board's policy with timely served but deficient expert disclosures that are promptly supplemented	533.02(b) N. 5	97 USPQ2d 1890, 1893 (TTAB 2011)
General Council of the Assemblies of God v. Heritage Music Foundation	For stated proposition that failure to inform the Board of a timely disclosure of an expert witness is not a ground to exclude the testimony	533.02(b) N. 6	97 USPQ2d 1890, 1893 (TTAB 2011)
General Mills Inc. v. Fage Dairy Processing Industry SA	the Board may exercise its authority to order a pretrial conference in person at the Board's offices in Alexandria, VA	502.06(b) N. 2	100 USPQ2d 1584, 1592 n.5 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	no authority to determine the right to use, or the broader questions of infringement, unfair competition, damages or injunctive relief	102.01 N. 2	100 USPQ2d 1584, 1591 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	excessively large record	110.09(c)(3) N. 1	100 USPQ2d 1584, 1591 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	excessive markings of various information as confidential complicates record and often indicates that matter is improperly	412.01 N. 9	100 USPQ2d 1584, 1591 n.4 (TTAB 2011)

	designated or not useful to case		
General Mills, Inc. v. Fage Dairy Processing Industry SA	trial testimony and exhibits stricken where applicant waited over two years to supplement responses and opposer lodge objection and cross-examined under protest	527.01(e) N. 2	100 USPQ2d 1584, 1593-94 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	in earlier order, Board imposed sanction prohibiting applicant from objecting to opposer's evidence	527.02 N. 5	100 USPQ2d 1584, 1596 n.19 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	Board expressed frustration with sizeable record and overzealous litigation	702.05 N. 1	100 USPQ2d 1584, 1591-92 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	("Even counsel at the oral hearing acknowledged that the present record is of a magnitude generally reserved for district court litigation.")	702.05 N. 2	100 USPQ2d 1584, 1591 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	after oral hearing, Board required parties to submit a joint index and amended briefs with citations to the joint index	702.05 N. 6	100 USPQ2d 1584, 1592 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	excessive markings of various information as confidential complicates record and often indicates that matter is improperly designated or not useful to case	703.01(p) N. 3	100 USPQ2d 1584, 1591 n.4 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	customer emails, third-party reports and presentations, and demonstrative exhibits - no -unless also authenticated by testimony or by stipulation	704.08(a) N. 5	100 USPQ2d 1584, 1592-93 (TTAB 2011)
General Mills, Inc. v. Fage Dairy Processing Industry SA	objection to testimony deemed waived because it was not maintained in brief	707.04 N. 5	100 USPQ2d 1584, 1592 n.7 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	For stated proposition that Board procedures are governed in part by Fed. R. Civ. P.	101.02 N. 1	100 USPQ2d 1323, 1326 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	because an exhaustive search for all information or potential witnesses not required, Board did not exclude the testimony of certain witnesses named for the first time in pretrial disclosures based on the failure to name them in initial disclosures,	401.02 N. 5	100 USPQ2d 1323, 1326 (TTAB 2011)

	though the testimony for most witnesses was excluded for other reasons		
Great Seats, Inc. v. Great Seats Ltd.	opposer was under a duty to supplement its discovery responses and disclosing for the first time in its pretrial and amended pretrial disclosures the identities of twenty-seven witnesses resulted in surprise to applicant	408.03 N. 2	100 USPQ2d 1323, 1326-27 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	estoppel sanction imposed with respect to the witnesses first disclosed in the amended and supplemental pretrial disclosures	408.03 N. 5	100 USPQ2d 1323, 1326, 1328 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	testimony of witnesses first identified in supplemental pretrial disclosures made five days after service of amended pretrial disclosures made not excluded based on alleged untimeliness	408.03 N. 6	100 USPQ2d 1323, 1326, 1328 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	motion to quash and exclude testimony of witnesses identified for first time in amended and supplemental pretrial disclosures granted	521 N. 9	100 USPQ2d 1323, 1328 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	after conducting the analysis, the Board found that opposer's failure to name one witness until original pretrial closures and twenty-six witnesses until supplement to amended pretrial disclosures was neither harmless nor substantially justified	527.01(e) N. 3	100 USPQ2d 1323, 1327-28 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	after conducting the analysis, the Board found that opposer's failure to name one witness until original pretrial closures and twenty-six witnesses until supplement to amended pretrial disclosures was neither harmless nor substantially justified and motion to quash granted as to twenty-six witnesses but testimony of one witness, identified months before in original pretrial disclosure, not excluded provided adverse party be given an	533.02 (b) N. 8	100 USPQ2d 1323, 1327-28 (TTAB 2011)

	opportunity to take a discovery deposition		
Great Seats, Inc. v. Great Seats Ltd.	after conducting the analysis, the Board found that opposer's failure to name one witness until original pretrial closures and twenty-six witnesses until supplement to amended pretrial disclosures was neither harmless nor substantially justified and motion to quash granted as to twenty-six witnesses but testimony of one witness, identified months before in original pretrial disclosure, not excluded provided adverse party be given an opportunity to take a discovery deposition	702.01 N. 15	100 USPQ2d 1323, 1327-28 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	applicant could not cure surprise without moving to quash, or seeking to reopen discovery, or engaging in unplanned preparation to cross examine witnesses identified for the first time in pretrial disclosures	702.01 N. 16	100 USPQ2d 1323, 1327 (TTAB 2011)
Great Seats, Inc. v. Great Seats Ltd.	failure to name witnesses in pretrial disclosures during discovery resulted in unfair surprise to adversary	702.01 N. 2	100 USPQ2d 1323, 1327 (TTAB 2011)
Guantanamo Cigars Co. v. Corporacion Habanos, S.A.	remanding on third factor of the test for determining whether a mark is primarily geographically deceptively misdescriptive	309.03(c) N. 9	729 F.Supp.2d 246, 98 USPQ2d 1078 (D.D.C. 2010)
Hard Rock Cafe Licensing Corp. v. Elsea	noting that a proffered excerpt from a newspaper or periodical is lacking in foundation and, thus, is not admissible as evidence to the extent that it is unintelligible because it is in a language other than English	104 N. 2	48 USPQ2d 1400, 1405 (TTAB 1998)
Holmes Oil Co. v Myers Cruizers of Mena, Inc.	in concurrent use proceedings, the Board determines entitlement to a registration, generally with a geographic restriction	1101.02 N. 2	101 USPQ2d 1148, 1149 (TTAB 2011)
Holmes Oil Co. v Myers Cruizers of Mena, Inc.	For stated proposition of applications/registrations involved in proceeding	1104 N.4	101 USPQ2d 1148, 1149 (TTAB 2011)
Holmes Oil Co. v Myers Cruizers of Mena, Inc.	persuasiveness of otherwise traditional consent agreement provided in resolution of concurrent	1110 N. 1	101 USPQ2d 1148, 1150 (TTAB 2011)

	use proceeding depends on reasons given that confusion is not likely		
Holmes Oil Co. v Myers Cruizers of Mena, Inc.	traditional consent agreement considered in concurrent use proceeding where only applicant's registration was to be geographically restricted found sufficient	1110 N. 2	101 USPQ2d 1148, 1150 (TTAB 2011)
Holmes Oil Co. v Myers Cruizers of Mena, Inc.	parties stipulated to terminate opposition proceeding in favor of concurrent use proceeding and to an amendment of the application to state geographic restrictions	1113.01 N. 3	101 USPQ2d 1148, 1149 n.1 (TTAB 2011)
Hunt Control Systems Inc. v. Koninklijke Philips Electronics N.V.	an applicant is on notice that an opposer intends to rely on a registration that matured from a pleaded application	704.03(b)(1)(A) N. 4	98 USPQ2d 1558, 1563 n.6 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	any opposition to a Section 66(a) application must be filed through ESTTA	110.09(a) N. 2	98 USPQ2d 1558, 1561 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	For stated proposition that any opposition to a Section 66(a) application must be filed through ESTTA	110.09(b) N. 1	98 USPQ2d 1558, 1561 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	any opposition to a Section 66(a) application must be filed through ESTTA	309.01 N. 2	98 USPQ2d 1558, 1561 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	For proposition that signature on ESTTA form is sufficient for entire filing	309.02(a) N. 1	98 USPQ2d 1558, 1561 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	For stated proposition that the ESTTA form requires opposer against a Madrid application to provide certain essential information	309.02(a) N. 2	98 USPQ2d 1558, 1561 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	For proposition that signature on ESTTA form is sufficient for entire filing	309.02(b) N. 3	98 USPQ2d 1558, 1561 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	"... with respect to Section 66(a) applications, all oppositions must be confided to the opposed goods identified ... on the ESTTA-generated opposition forms."	309.03(a)(1) N. 3	98 USPQ2d 1558, 1561-62 (TTAB 2011)
Hunt Control	opposer's assertion of use on "their	309.03(a)(2) N.	98 USPQ2d

Systems, Inc. v. Koninklijke Philips Electronics N.V.	related components" in connection with "lighting control panels and electrical light dimmers" provided fair notice to applicant of the scope of opposer's asserted goods at common law	3	1558, 1562 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	Prior use established by testimony and conceded by applicant	309.03(b) N. 9	98 USPQ2d 1558, 1565 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	For proposition that signature on ESTTA form is sufficient for entire filing	311.01(b) N. 2	98 USPQ2d 1558, 1561 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	For proposition that an opposition against a <u>Trademark Act § 66(a), 15 U.S.C. § 1141f(a)</u> , the scope of the goods and/or services opposed is limited to those identified in the ESTTA-generated cover form	315 N. 4	98 USPQ2d 1558, 1561-62 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	For proposition that an opposition against a <u>Trademark Act § 66(a), 15 U.S.C. § 1141f(a)</u> , the scope of the goods and/or services opposed is limited to those identified in the ESTTA-generated cover form	507.01 N. 5	98 USPQ2d 1558, 1561-62 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	parties stipulated to authenticity of produced documents and to the introduction of testimony in affidavit or declaration form, with certain guidelines	702.04(e) N. 1	98 USPQ2d 1558, 1563 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	parties stipulated to the introduction of testimony in affidavit or declaration form, with certain guidelines	703.01(b) N. 5	98 USPQ2d 1558, 1563 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	opposer filed exhibits separately under a notice of reliance but the proper procedure is to attach exhibits to the copy of the transcript being filed	703.01(i) N. 8	98 USPQ2d 1558, 1563 n.7 (TTAB 2011)
Hunt Control Systems, Inc. v. Koninklijke Philips Electronics N.V.	record includes pleadings and file of the opposed application	704.03(a) N. 1	98 USPQ2d 1558, 1563 (TTAB 2011)
Hunt Control Systems, Inc. v.	parties stipulated to authenticity of produced documents and to the	705 N. 4	98 USPQ2d 1558, 1563

Koninklijke Philips Electronics N.V.	introduction of testimony in affidavit or declaration form, with certain guidelines		(TTAB 2011)
In re Anderson	Board sua sponte consolidated two appeals	1214 N. 1	101 USPQ2d 1912, 1915 (TTAB 2012)
In re City of Houston	no need to attached additional copies to appeal brief of materials already of record; examining attorney's objections to the duplicative exhibits is overruled because striking the materials already of record would be pointless	1203.01 N. 2	101 USPQ2d 1534, 1536 (TTAB 2012)
In re City of Houston	examining attorney's failure to advise applicant that the listed of registrations offered during examination was a waiver of objection of consideration of such list, but not of copies of the registrations submitted with reply brief	1203.02(e) N. 2	101 USPQ2d 1534, 1536-37 (TTAB 2012)
In re City of Houston	(quoting In re Broadway Chicken Inc., 38 USPQ2d 1559, 1560 n.6 (TTAB 1996) (citing In re Smith and Mehaffey, 31 USPQ2d 1531 (TTAB 1994))), (evidentiary submissions “should be made prior to appeal or, if after appeal, pursuant to a remand of the matter to the examining attorney for further examination. Trademark Rule 2.142(d).”	1207.03 N. 3	101 USPQ2d 1534, 1536 n.5 (TTAB 2012)
In re City of Houston	("[T]he examining attorney’s failure to advise applicant of the insufficiency of the list of registrations when it was proffered during examination constituted a waiver of any objection to consideration of that list. Accordingly, we will consider the ... list of registrations ... ‘for whatever limited probative value such evidence may have.’” (citing In re Broyhill Furniture Indus. Inc., 60 USPQ2d 1511, 1513, n.3 (TTAB 2001)))	1207.03 N. 4	101 USPQ2d 1534, 1536 (TTAB 2012)
In re City of	copies of third-party registrations	1208.02 N. 4	101 USPQ2d

Houston	submitted for first time with reply brief are untimely and will not be considered, but list of such registrations submitted during examination will be considered for whatever limited probative value it has		1534, 1536 (TTAB 2012)
In re City of Houston	For stated proposition that a claim can be asserted under Trademark Act § 2(b)	309.03(c) N. 37	101 USPQ2d 1534 (TTAB 2012)
In re Country Music Association, Inc.	printouts from web pages are not per se incompetent to show a term is generic	1208.03 N. 2	100 USPQ2d 1824, 1829 (TTAB 2011)
In re Country Music Association, Inc.	For proposition that applicant's expert reports will be considered	1208.05 N. 2	100 USPQ2d 1824, 1830-31 (TTAB 2011)
In re Country Music Association, Inc.	For proposition that applicant's survey evidence will be considered	1208.05 N. 3	100 USPQ2d 1824, 1831-32 (TTAB 2011)
In re Country Music Association, Inc.	Board sua sponte consolidated two appeals	1214 N. 1	100 USPQ2d 1824, 1827 (TTAB 2011)
In re Country Music Association, Inc.	requirement for a disclaimer in part affirmed, applicant allowed time to submit disclaimer	1218 N. 2	100 USPQ2d 1824, 1835 (TTAB 2011)
In re District of Columbia	no authority to declare provisions of the Trademark Act unconstitutional	102.01 N. 3	101 USPQ2d 1588, 1602 (TTAB 2012)
In re District of Columbia	third-party registrations submitted for first time with appeal brief are not considered	1203.02(e) N. 2	101 USPQ2d 1588, 1591-92 (TTAB 2012)
In re District of Columbia	101 USPQ2d 1588, 1591 (TTAB 2012)	1208.02 N. 4	101 USPQ2d 1588, 1591 (TTAB 2012)
In re District of Columbia	For stated proposition that a claim can be asserted under Trademark Act § 2(b)	309.03(c) N. 37	101 USPQ2d 1588 (TTAB 2012)
In re Giovanni Food Co.	documents from file of cited registration submitted with applicant's appeal brief are late-filed and not considered; examining attorney's objection sustained	1207.01 N. 1	97 USPQ2d 1990-91 (TTAB 2011)
In re Greenliant Systems Ltd.	The Board will review only the correctness of a substantive refusal, not the procedural issue of whether the issuance of or failure to issue a	1201.05 N. 13 "see also	97 USPQ2d 1078, 1080 n.3 (TTAB 2010)

	substantive refusal was "clear error"		
In re Greenliant Systems Ltd.	The Board may take judicial notice of dictionary definitions	1208.04 N. 1	97 USPQ2d 1078, 1080 n.5 (TTAB 2010)
In re Hoefflin	Listings of registrations not of record; Board did not consider registrations, but briefly considered applicant's argument without discussing the registrations listed	1208.02 N. 3	97 USPQ2d 1174, 1177 (TTAB 2010)
In re Jonathan Drew, Inc.	Board may take judicial notice of dictionaries, including online dictionaries which exist in print format	1208.04 N. 1	97 USPQ2d 1640, 1642 n.4 (TTAB 2011)
In re Jonathan Drew, Inc.	The Board did not take judicial notice of applicant's late-filed registration	1208.04 N. 7	97 USPQ2d 1640, 1644 n.1 (TTAB 2011)
In re Jonathan Drew, Inc.	mark would be perceived as a misspelling of geographic location and found primarily geographically deceptively misdescriptive for the goods	309.03(c) N. 9	97 USPQ2d 1640, 1642 (TTAB 2011)
In re Kysela Pere et Fils Ltd.	Board would be very critical if examining attorney were to submit an inordinate number of registrations	1203.01 N. 9	98 USPQ2d 1261, 1265 (TTAB 2011)
In re Kysela Pere et Fils Ltd.	Those no basis to conclude U.S. consumers exposed to website for Australian brewery	1208.01 N. 5	98 USPQ2d 1261, 1265 n.9 (TTAB 2011)
In re Kysela Pere et Fils Ltd.	Board considered TESS listings for whatever probative value they had	1208.02 N. 7	98 USPQ2d 1261, 1264 n.6 (TTAB 2011)
In re Lorillard Licensing Co.	attachment to brief of hundreds of pages of exhibits already of record not helpful, instead it would have been helpful to identify, by date of submission and page number in Office's TDR database, the material being referenced in the brief	1203.01 N. 9	99 USPQ2d 1312, 1315 (TTAB 2011)
In re Lorillard Licensing Co.	examining attorney was not required to advise applicant that reference to a third-party registration was insufficient to make such registration of record when reference was made for the first time in a request for reconsideration which was denied	1207.03 N.4	99 USPQ2d 1312, 1314-15 n.3 (TTAB 2011)
In re Lorillard Licensing Co.	Board did not find more than 6500 form declarations from "customers"	1208 N.6	99 USPQ2d 1312, 1318-20

	and more than 4500 declarations from dealers very probative of applicant's claim of acquired distinctiveness		(TTAB 2011)
In re Luxuria s.r.o.	parties may cite to non-precedential decisions, but they are not binding on the Board	101.03 N. 1	100 USPQ2d 1146, 1151 n. 7 (TTAB 2011)
In re Luxuria s.r.o.	materials submitted with reply brief, after two requests for remand were denied, were not of record and, because reply brief discussed materials at length, reply brief also not considered	1203.02(e) N. 2	100 USPQ2d 1146, 1147-48 (TTAB 2011)
In re Luxuria s.r.o.	materials submitted with reply brief, after two requests for remand were denied, were not of record and, because reply brief discussed materials at length, reply brief also not considered	1207.01 N. 1	100 USPQ2d 1146, 1147-48 (TTAB 2011)
In re Luxuria s.r.o.	a request for remand must be accompanied by a showing of good cause	1207.02 N. 3	100 USPQ2d 1146, 1147
In re Luxuria s.r.o.	request for remand made after appeal briefs filed	1207.03 N. 4	100 USPQ2d 1146, 1147
In re Luxuria s.r.o.	design configuration of a bottle in the shape of a hand with the middle finger extended upwards found to be vulgar and thus unregistrable as scandalous or immoral	309.03(c) N. 14	100 USPQ2d 1146 (TTAB 2011)
In re theDot Communications Network LLC	limited probative value in view of the current market conditions which are very different from when registrations issued	704.03(b)(1)(B) N. 7	101 USPQ2d 1062, 1067 (TTAB 2011)
In re Thomas Nelson	The Board does not take judicial notice of third-party registrations	1208.04 N. 7	97 USPQ2d 1712, 1717 n.18 (TTAB 2011)
In re Thomas Nelson, Inc.	specific data provided by applicant considered because examining attorney did not advise applicant that a listing of registrations was insufficient when applicant had time to cure the defect)	1208.02 N. 4	97 USPQ2d 1712, 1717 (TTAB 2011)
In re Thomas Nelson, Inc.	search engine results submitted by examining attorney not considered because they did not provide sufficient context to have any	1208.03 N 5	97 USPQ2d 1712, 1715 (TTAB 2011)

	probative value		
In re Thomas Nelson, Inc.	applicant maintained claim of acquired distinctiveness under Trademark Act § 2(f) in the alternative, but better practice would have been for examining attorney to have reviewed files of applicant's prior registrations to determine whether applicant had previously conceded the mark was merely descriptive	1215 N. 2	97 USPQ2d 1712, 1713 (TTAB 2011)
In re Trek 2000 International Ltd.	Issue of whether it was procedurally improper to restore jurisdiction over application to examining attorney after application was initially approved for publication not considered by Board as the question of "clear error" in approving for publication reviewable only on petition to the Director	1201.05 N. 13	97 USPQ2d 1106, 1107-08 (TTAB 2010)
In re Van Valkenburgh	applicant has responsibility to make sure that the record is complete prior to filing a notice of appeal	1207.01 N. 1	97 USPQ2d 1757, 1768 n.32 and 1769 (TTAB 2011)
Kallamni v. Khan	evidence of record showing petitioner's pending application refused registration based on respondent's registration	309.03(b) N. 10	101 USPQ2d 1864, 1865 (TTAB 2012)
Kallamni v. Khan	For stated proposition that a claim exists where a defendant has not established a commercial presence in the country from which its underlying registration issued	309.03(c) N. 38	101 USPQ2d 1864 (TTAB 2012)
Kistner Concrete Products, Inc. v. Contech Arch Technologies, Inc	competitor in industry has a real interest in cancelling registration for product configuration	309.03(b) N. 16	97 USPQ2d 1912, 1918 (TTAB 2011)
Kistner Concrete Products, Inc. v. Contech Arch Technologies, Inc	registration on Supplemental Register for a precast concrete bridge unit	309.03(c) N. 11	97 USPQ2d 1912, 1918-19 (TTAB 2011)
Kistner Concrete Products, Inc. v. Contech Arch Technologies, Inc.	parties stipulated to authenticity of produced documents	702.04(e) N. 1	97 USPQ2d 1912, 1915 (TTAB 2011)
Kistner Concrete	Parties stipulated to authenticity of	705 N. 4	97 USPQ2d

Products, Inc. v. Contech Arch Technologies, Inc	produced documents		1912, 1915 (TTAB 2011)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	include citation to the USPQ if the case appeared in that reporter	101.03 N. 2	101 USPQ2d 1826, 1830 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	parties may stipulated that their cross motions for summary judgment be the ACR record	528.05(a)(2) N. 2	101 USPQ2d 1826, 1827-28, 1830 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	although the parties crafted and proceeded with their own ACR approach, better practice is to contact the assigned Board attorney when the parties elect to pursue ACR	528.05(a)(2) N. 6	101 USPQ2d 1826, 1829-30 n.9 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	For stated explanation of one approach to ACR	702.04(a) N. 1	101 USPQ2d 1826, 1827-28 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	For stated explanation of one approach to ACR	702.04(a) N. 2	101 USPQ2d 1826, 1828 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	although the parties crafted and proceeded with their own ACR approach, better practice is to contact the assigned Board attorney when the parties elect to pursue ACR	702.04(a) N. 5	101 USPQ2d 1826, 1829-30 n.9 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	parties who stipulated to certain facts and issued, yet also submitted evidence to prove these points, have gone to needless effort and expense and the Board unnecessarily must review this evidence	702.04(d) N. 2	101 USPQ2d 1826, 1830 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	summary of search results from USPTO's electronic database is not an official record of the Office	704.03(b)(1)(B) N. 6	101 USPQ2d 1826, 1829 n.8 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	document responses consisting of objections and/or representations that the documents would be produced treated as of record	704.11 N. 8	101 USPQ2d 1826, 1829 (TTAB 2012)
Lebanon Seaboard Corp. v. R&R Turf Supply, Inc.	include citation to the USPQ if the case appeared in that reporter	801.03 N. 6	101 USPQ2d 1826, 1830 (TTAB 2012)
Mattel, Inc. v. Brainy Baby Co.	Office action refusing registration to plaintiff based on defendant's	309.03(b) N. 10	101 USPQ2d 1140, 1142

	registration made of record		(TTAB 2011)
Mattel, Inc. v. Brainy Baby Co.	For stated proposition that a claim can be asserted on the basis that the purported mark identifies a title to a single creative work	309.03(c) N. 36	101 USPQ2d 1140, 1142-44 (TTAB 2011)
Mattel, Inc. v. Brainy Baby Co.	reply brief not considered because it exceeded the page limit	502.02(b) N. 3	101 USPQ2d 1140, 1141 (TTAB)
Mattel, Inc. v. Brainy Baby Co.	over length reply brief included a table of contents and a table of authorities	502.02(b) N. 4	101 USPQ2d 1140, 1141 (TTAB)
Melwani v. Allegiance Corp.	Pleaded regs not of record by inputting in ESTTA protocol	317 N. 6	97 USPQ2d 1537, 1540 (TTAB 2010)
Melwani v. Allegiance Corp.	Motions should not be embedded in other filings	502.02(b) N. 12	97 USPQ2d 1537, 1541 (TTAB 2010)
Melwani v. Allegiance Corp.	No excusable neglect found where reason for delay was opposer's belief that proceedings were suspended; motion for involuntary dismissal granted	534 N. 5	97 USPQ2d 1537, 1541-42 (TTAB 2010)
Melwani v. Allegiance Corp.	Pleaded regs not of record where they appear in ESTTA cover page but were not separately attached as exhibits	704.03(b)(1)(A) N. 2	97 USPQ2d 1537, 1540 (TTAB 2010)
Melwani v. Allegiance Corp.	Pleaded regs not of record where they appear in ESTTA cover page but were not separately attached as exhibits	704.05(a) N. 3	97 USPQ2d 1537, 1539-40 (TTAB 2010)
New Orleans Louisiana Saints LLC v. Who Dat?, Inc	For stated procedure when more than one plaintiff, different oppositions, when suspension may be considered	510.02(a) N. 8-10	99 USPQ2d 1550, 1551 (TTAB 2011)
New Orleans Louisiana Saints LLC v. Who Dat?, Inc	if multiple oppositions brought by different opposers are at the same stage of litigation and plead the same claims, the Board may consolidate for consistency and economy	511 N. 4	99 USPQ2d 1550, 1551 (TTAB 2011)
New Orleans Louisiana Saints LLC v. Who Dat?, Inc	where one application subject to multiple, unrelated oppositions, any amendment to opposed application would have to be made with the consent of all opposers	514.02 N. 1	99 USPQ2d 1550 (TTAB 2011)
New Orleans Louisiana Saints	abandonment must be with written consent of all opposer or judgment	602.01 N. 7	99 USPQ2d 1550 (TTAB

LLC v. Who Dat?, Inc	will be entered for each opposer who has not consented		2011)
New Orleans Louisiana Saints LLC v. Who Dat?, Inc	For stated proposition where judgment in favor of one plaintiff, remaining unrelated plaintiffs will be given time to go forward or proceeding will be dismissed as moot	807 N. 3	99 USPQ2d 1550, 1551 n.3 (TTAB 2011)
New Orleans Louisiana Saints LLC v. Who Dat?, Inc.	Board will scrutinize pleadings in civil action to determine if the issues before the court may have a bearing on the Board's decision	510.02(a) N. 13	99 USPQ2d 1550, 1552 (TTAB 2011)
New Orleans Louisiana Saints LLC v. Who Dat?, Inc.	decision by district court may be binding on the Board, but determination by the Board of a defendant's right to obtain or maintain a registration would not be binding or res judicata in the court proceeding	510.02(a) N. 2	99 USPQ2d 1550, 1552 (TTAB 2011)
New Orleans Louisiana Saints LLC v. Who Dat?, Inc.	civil action need not be dispositive of Board proceeding, but only needs to have a bearing on issues before the Board	510.02(a) N. 7	99 USPQ2d 1550, 1552 (TTAB 2011)
Nike, Inc. v. Maher	Full analysis of factors and finding of dilution by blurring	309.03(c) N. 30	100 USPQ2d 1018 (TTAB 2011)
Nike, Inc. v. Maher	limited probative value of expired third-party registration is further limited to the short time it was registered	704.03(b)(1)(A) N. 24	100 USPQ2d 1018, 1021 (TTAB 2011)
Nike, Inc. v. Maher	little probative value because they tell nothing about whether the marks are being used or the manner of such use	704.03(b)(1)(B) N. 7	100 USPQ2d 1018, 1028 (TTAB 2011)
Nike, Inc. v. Maher	to indicate a commonly registered expression with a suggestive meaning	704.03(b)(1)(B) N. 8	100 USPQ2d 1018, 1028 (TTAB 2011)
Nike, Inc. v. Maher	produced documents not considered because not admissible under notice of reliance	704.11 N. 2	100 USPQ2d 1018, 1020-21 n.2 (TTAB 2011)
Nike, Inc. v. Maher	For stated proposition that applicant's response that no documents exist is admissible under notice of reliance	704.11 N. 8	100 USPQ2d 1018, 1020-21 n.2 (TTAB 2011)
O.C. Seacrets, Inc.	Opposition against a 66(a)	507.01 N. 4	95 USPQ2d

v. Hotelplan Italia S.p.A	application may not be amended to add new grounds		1327 (TTAB 2010).
Plyboo America, inc. v. Smith & Fong Co.	standing where opposer a competitor in the industry, a direct competitor of applicant, and one who used the mark at issue on or in connection with its product	309.03(b) N. 16	51 USPQ2d 1633, 1634 (TTAB 1999)
Productos Lacteos Tocumbo S.A. de C.V. v. Paletteria La Michoacana, Inc.	unpleaded affirmative defenses of prior registration defense and tacking not considered	311.02(c) N. 1	98 USPQ2d 1921, 1926 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paletteria La Michoacana, Inc.	unpleaded affirmative defenses of prior registration defense and tacking not considered	314 N. 3	98 USPQ2d 1921, 1926 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paletteria La Michoacana, Inc.	1. petitioner's rights in unpleaded marks tried by implied consent, and Board deemed pleadings to be amended to conform to the evidence, where plaintiff stated the relevance of the submissions under notices of reliance, emphasized its intention to rely on such marks through testimony, and where respondent did not object to the testimony at the time, was afforded an opportunity to cross-examine, and raised an untimely objection; 2. unpleaded tacking and prior registration defense were not tried by implied consent where petitioner not fully appraised of respondent's reliance on use and registration of another mark	507.03(b) N. 3	98 USPQ2d 1921, 1924-27 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paletteria La Michoacana, Inc.	petitioner's "family of marks" claim, raised for the first time in its brief, not considered because it was neither pleaded nor tried by the parties	507.03(b) N. 4	98 USPQ2d 1921, 1927 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paletteria La Michoacana, Inc.	objection on the basis that the witness had not been previously disclosed waived where not renewed in main brief and raised for first time in rebuttal brief	533.02(b) N. 7	98 USPQ2d 1921, 1928 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paletteria La Michoacana, Inc.	record includes pleadings and registration file for respondent's mark	704.03(a) N. 1	98 USPQ2d 1921, 1933 (TTAB 2011)

Productos Lacteos Tocumbo S.A. de C.V. v. Paeteria La Michoacana, Inc.	probative of meaning of term, not probative that term is commercially weak	704.03(b)(1)(B) N. 8	98 USPQ2d 1921, 1934 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paeteria La Michoacana, Inc.	judicial notice of information from encyclopedias	704.12 N. 2	98 USPQ2d 1921, 1934 n.61 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paeteria La Michoacana, Inc.	objection on the basis that the witness had not been previously disclosed waived where not renewed in main brief and raised for first time in rebuttal brief	707.03(b)(3) N. 3	98 USPQ2d 1921, 1928 (TTAB 2011)
Productos Lacteos Tocumbo S.A. de C.V. v. Paeteria La Michoacana, Inc.	objection on the basis that the witness had not been previously disclosed waived where not renewed in main brief and raised for first time in rebuttal brief	707.03(c) N. 12	98 USPQ2d 1921, 1928 (TTAB 2011)
Research in Motion Limited v. Defining Presence Marketing Group, Inc.	pleaded registrations of record	309.03(b) N. 8	102 USPQ2d 1187, 1190 (TTAB 2012)
Research in Motion Limited v. Defining Presence Marketing Group, Inc.	full analysis of factors finding dilution by blurring	309.03(c) N. 30	102 USPQ2d 1187 (TTAB 2012)
Research in Motion Limited v. Defining Presence Marketing Group, Inc.	failure to prove priority at common law for goods not covered by pleaded registrations of record	309.03(c) N. 39	102 USPQ2d 1187, 1195 (TTAB 2012)
Research in Motion Limited v. Defining Presence Marketing Group, Inc.	priority not at issue for the goods and services recited in the pleaded registrations of record	309.03(c) N. 44	102 USPQ2d 1187, 1190 (TTAB 2012)
Research in Motion Limited v. Defining Presence Marketing Group, Inc.	likelihood of confusion found based on evidence relevant to factors bearing on issue for certain classes of goods but not for one class of goods	309.03(c) N. 47	102 USPQ2d 1187, 1194 (TTAB 2012)
Research in Motion Limited v. Defining Presence Marketing Group, Inc.	Board will assess alleged parody as part of the circumstances in determining whether plaintiff has made out its claim	311.02(b) N. 13	102 USPQ2d 1187, 1188 (TTAB 2012)
Research in Motion Limited v. Defining Presence Marketing	affirmative defenses not pursued at trial deemed waived	801.01 N. 2	102 USPQ2d 1187 (TTAB 2012)

Group, Inc.			
Rocket Trademarks Pty. Ltd. v. Phard S.p.A	a party has no duty to conduct an investigation of third-party use in response to discovery requests	414 N. 16	98 USPQ2d 1066, 1071-72 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A	objected-to documents were obtained or created by applicant in anticipation of trial and were not responsive documents that were already in its possession or control when it was respondent to document requests	527.01(e) N. 2	98 USPQ2d 1066, 1071-72 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A	motion to strike portions of plaintiff's trial brief denied; issues sought to be stricken are possible factors in considering likelihood of confusion and Board is capable of weighing relevance and strength or weakness of arguments presented in briefs	539 N. 2	98 USPQ2d 1066, 1071 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A	opposer filed exhibits separately under a notice of reliance but the proper procedure is to attach exhibits to the copy of the transcript being filed	703.01(i) N. 8	98 USPQ2d 1066, 1070 n.9 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A	not necessary to submit title and status copies of third-party registrations prepared by Office; plain copies from the USPTO's electronic database would have sufficed	704.03(b)(1)(B) N. 3	98 USPQ2d 1066, 1070 n.11 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A	documents obtained from internet admitted even though witness did not personally obtain or download documents	704.08(b) N. 1	98 USPQ2d 1066, 1071 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A	objection concerning authentication made in brief but not in testimonial deposition procedural in nature and not timely raised, but same exhibits from internet submitted under notice of reliance authenticated, , and even if not submitted under notice of reliance, are admissible as long as witness testifies to general relevance and it is possible to determine the source and date of retrieval	707.03(c) N. 2	98 USPQ2d 1066, 1070-71 (TTAB 2011)
Rocket Trademarks	objection sustained because	707.03(c) N. 7	98 USPQ2d

Pty. Ltd. v. Phard S.p.A	purported statements made by employees of retail websites to deponent, and handwritten notes taken by deponent of such statements, are hearsay		1066, 1072 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A.	pleaded registrations of record	309.03(b) N. 8	98 USPQ2d 1066, 1072 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A.	priority not at issue as to the marks and goods covered by the pleaded registrations, which are of record	309.03(c) N. 44	98 USPQ2d 1066, 1072 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A.	record includes pleadings and file of the opposed application	528.05(a)(1) N. 2	98 USPQ2d 1066, 1070 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A.	documents obtained from internet admitted even though witness did not personally obtain or download documents	528.05(e) N. 6	98 USPQ2d 1066, 1071 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A.	record includes pleadings and file of the opposed application	704.03(a) N. 1	98 USPQ2d 1066, 1070 (TTAB 2011)
Rocket Trademarks Pty. Ltd. v. Phard S.p.A.	Dictionary definitions	704.12(a) N. 2	98 USPQ2d 1066, 1075 (TTAB 2011)
Rolex Watch U.S.A., Inc. v. AFP Imaging Corp	where opposer did not argue its likelihood of confusion and dilution by tarnishment claims in its brief, applicant's uncontested request that judgment be found in its favor on the claims was granted	801.01 N. 2	101 USPQ2d 1188, 1189 (TTAB 2011)
Rolex Watch U.S.A., Inc. v. AFP Imaging Corp.	capacity to market and manufacture the goods, and identified goods consistent with a nature extension of current product line, rebut the lack of documentary evidence	309.03(c) N. 18	101 USPQ2d 1188, 1197 (TTAB 2011)
Rolex Watch U.S.A., Inc. v. AFP Imaging Corp.	full analysis of factors and finding of dilution by blurring	309.03(c) N. 30	101 USPQ2d 1188, 1191-97 (TTAB 2011)
Rolex Watch U.S.A., Inc. v. AFP Imaging Corp.	adverse party provided the requisite written statement explaining why it needs to rely upon the additional excerpts	704.09 N. 4	101 USPQ2d 1188, 1190 (TTAB 2011)
Safer, Inc. v. OMS Investments, Inc.	the Office's files are in electronic form and accessible to all via the Internet, and to that extent they are both official records and in general	704.07 N. 4	94 USPQ2d 1031, 1038 (TTAB 2010)

	circulation		
Safer, Inc. v. OMS Investments, Inc.	if a document obtained from the Internet identifies its date of publication or date that it was accessed and printed, and its source (e.g., the URL), it may be admitted into evidence pursuant to a notice of reliance in the same manner as a printed publication in general circulation in accordance with Trademark Rule 2.122(e)	704.08(b) N. 2	94 USPQ2d 1031, 1038 (TTAB 2010)
ShutEmDown Sports, Inc. v. Lacy	applicant's use of symbols qualified as a signature	106.02 N. 2	102 USPQ2d 1036, 1039 n.12 (TTAB 2012)
ShutEmDown Sports, Inc. v. Lacy	evidence of record showing petitioner's pending application refused registration based on respondent's registration	309.03(b) N. 10	102 USPQ2d 1036, 1041 (TTAB 2012)
ShutEmDown Sports, Inc. v. Lacy	respondent's mark not in use in commerce at time of filing of his use-based application	309.03(c) N. 17	102 USPQ2d 1036 (TTAB 2012)
ShutEmDown Sports, Inc. v. Lacy	more than three years of nonuse, commencing with filing date for majority of the identified goods, and no evidence rebutting prima facie showing	309.03(c) N. 26	102 USPQ2d 1036 (TTAB 2012)
ShutEmDown Sports, Inc. v. Lacy	hangtag by itself, without any testimony describing how it was used, merely demonstrates that the hangtag existed at some point in time; not that the mark was actually placed on goods or that goods bearing the hangtag were offered for sale in commerce	704.08(c) N. 6	102 USPQ2d1036 (TTAB 2012)
ShutEmDown Sports, Inc. v. Lacy	produced documents cannot be introduced by notice of reliance alone	704.11 N. 2	102 USPQ2d 1036 at n.8 (TTAB 2012)
ShutEmDown Sports, Inc. v. Lacy	written responses to document requests indicating that no documents exist may be submitted by notice of reliance	704.11 N. 8	102 USPQ2d 1036 at n.7 (TTAB 2012)
SmithKline Beecham Corp. v. Omnisource DDS LLC	Standing established by introduction of pleaded registrations	309.03(b) N. 8	97 USPQ2d 1300, 1301 (TTAB 2010)
SmithKline	Pleading and proof requirements for	309.03(c) N. 19	97 USPQ2d

Beecham Corp. v. Omnisource DDS LLC	a claim of no bona fide intent to use the mark in commerce as of the filing date of the application not the same as pleading and proof requirements for fraud		1300, 1305 (TTAB 2010)
SmithKline Beecham Corp. v. Omnisource DDS LLS	lack of a bona fide intent to use; no documentary evidence; record devoid of any other evidence of intended use	309.03(c) N. 18	97 USPQ2d 1300, 1304-05
Spirits International B.V. v. S. S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birliđi	in view of arguable similarities in the marks and relatedness of the goods, opposer has shown a reasonable belief of damage and that it has a real interest in the case	309.03(b) N. 2	99 USPQ2d 1545, 1548 (TTAB 2011)
Spirits International B.V. v. S. S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birliđi	lack of a bona fide intent to use found where there was no documentary evidence, an affirmative statement that no such documents exist, and no other evidence to explain lack of documentary evidence)	309.03(c) N. 18	99 USPQ2d 1545, 1548-49 (TTAB 2011)
Spirits International B.V. v. S. S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birliđi	opposer may rely on its earlier- filed intent-to-use application filing date as a constructive use date for purposes of priority; any judgment is contingent upon registration of opposer's application	309.03(c) N. 41	99 USPQ2d 1545, 1549 (TTAB 2011)
Spirits International B.V. v. S. S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birliđi	if applicant believes opposer's objection to registration is limited to some, but not all, of the goods in a single class, applicant could avail itself of the divisional procedure to avoid the opposition being sustained against the entire class, should opposer prevail	516 N. 3	99 USPQ2d 1545, 1547, n.3 (TTAB 2011)
Spirits International B.V. v. S. S. Taris Zeytin Ve Zeytinyagi Tarim Satis Kooperatifleri Birliđi	For stated proposition that a party may introduce by notice of reliance its adversary's document response that no responsive documents exist	704.11 N. 8	99 USPQ2d 1545, 1547-48 n.5 (TTAB 2011)
Stephen Slesinger, Inc., v. Disney Enterprises, Inc.	no standing in Board proceeding where district court decided plaintiff lack an ownership interest in the marks	309.03(b) N. 5	98 USPQ2d 1890, 1895 n.15 (TTAB 2011)

Stephen Slesinger, Inc., v. Disney Enterprises, Inc.	ownership of the marks at issue established in court proceeding; issue defendant entitled to summary judgment based on issue preclusion	309.03(c) N. 35	98 USPQ2d 1890 (TTAB 2011)
Stephen Slesinger, Inc., v. Disney Enterprises, Inc.	plaintiff cannot establish priority because it cannot prove ownership of some prior right in view of the district court's finding that plaintiff transferred all its rights to defendant	309.03(c) N. 40	98 USPQ2d 1890, 1896 n.17
Stephen Slesinger, Inc., v. Disney Enterprises, Inc.	motion to dismiss treated as one for summary judgment because matters outside the pleadings considered	503.04 N. 3	98 USPQ2d 1890, 1894 (TTAB 2011)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	include citation to the USPQ if the case appeared in that reporter	101.03 N. 2	101 USPQ2d 1731, 1736 n.11 (TTAB 2012)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	articles submitted in a foreign language without translations of limited probative value	104 N. 2	101 USPQ2d 1731, 1734 n.8 (TTAB 2012)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	articles submitted in a foreign language without translations of limited probative value	704.08(a) N. 6	101 USPQ2d 1731, 1734 n.8 (TTAB 2012)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	Internet printouts submitted as exhibits to testimony are not hearsay	704.08(b) N. 6	101 USPQ2d 1731, 1735 (TTAB 2012)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	declaration and exhibits submitted with brief not an acceptable way to make evidence of record and materials are not treated as stipulated in view of objection and because defendant would not have stipulated if it could not provide further information	706 N. 1	101 USPQ2d 1731, 1734-35 (TTAB 2012)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	objection sustained because deponents statements regarding information they received from third parties during telephone conversations was inadmissible hearsay	707.03(c) N. 7	101 USPQ2d 1731, 1735 (TTAB 2012)

Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	affirmative defenses deemed waived where no mention of them in trial brief	801.01 N. 2	101 USPQ2d 1731, 1734 n.4 (TTAB 2012)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	include citation to the USPQ if the case appeared in that reporter	801.03 N. 6	101 USPQ2d 1731, 1736 n.11 (TTAB 2012)
Swiss Watch International, Inc. v. Federation of the Swiss Watch Industry	change in composition of panel does not necessitate a rehearing of oral argument	802.04 N. 2	101 USPQ2d 1731, 1732 n.1 (TTAB 2012)
Top Tobacco LP v. North Atlantic Operating Co.	For stated proposition on reverse confusion	309.03(c) N. 52	101 USPQ2d 1163, 1175 n.18 (TTAB 2011)
Top Tobacco LP v. North Atlantic Operating Co.	plaintiff's mark is registered without either a disclaimer of the term at issue or a claim of acquired distinctiveness, and there is no counterclaim so Board cannot entertain any attack on the term as being merely descriptive	313.01 N. 1	101 USPQ2d 1163, 1174 n.17 (TTAB 2011)
Top Tobacco LP v. North Atlantic Operating Co.	although deponent failed to authenticate exhibits made up of product packaging, they were found to be self-authenticating	704.08(c) N. 5	101 USPQ2d 1163, 1167-68 (TTAB 2011)
Top Tobacco LP v. North Atlantic Operating Co.	trade designations on materials of limited probative value because they do not establish they were actually used in commerce or the degree of consumer exposure	704.08(c) N. 6	101 USPQ2d 1163, 1168 (TTAB 2011)
Tovaritch Spirits International S.A. v. Luxco Inc.	clear that the time a party has to contest a TTAB decision is two calendar months, not sixty days	903.04 N.1	100 USPQ2d 1543, 1545 (E.D. Mo. Oct. 20, 2011)
UMG Recordings, Inc. v. Mattel, Inc.	full analysis of factors and finding of dilution by blurring	309.03(c) N. 30	100 USPQ2d 1868, 1886-90 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	scope of applicant's request, to restrict all of opposer's registrations, pending applications, and future applications, is in the nature of an injunction	313.01 N. 4	100 USPQ2d 1868, 1873 (TTAB 2011)

UMG Recordings, Inc. v. Mattel, Inc.	applicant paid two fees for a counterclaim but only indicated one registration, found in the ESTTA cover form, and opposer owns no registration in the Class for which applicant seeks a restriction	313.03 N. 5	100 USPQ2d 1868, 1872-73 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	although opposer did not properly plead its fame for purposes of dilution, the Board deemed the dilution claim amended by implied consent	507.03(b) N. 3	100 USPQ2d 1868, 1872 n.3 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	overly large records tax the resources of the Board and are entirely unnecessary	702.05 N. 1	100 USPQ2d 1868, 1873 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	dictionary definition - yes; web pages from web sites - no	704.12(a) N. 2	100 USPQ2d 1868, 1874, 1879 n.12 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	stipulated evidence subject to objection	705 N. 2	100 USPQ2d 1868, 1875 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	counterproductive for applicant to object to the submission of evidence to which it already provided a stipulation for introduction	705 N. 3	100 USPQ2d 1868, 1875 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	parties stipulated to submission of testimony via declaration, submission by notice of reliance of evidence from another case, and submission of information and documents provided by either party during discovery	705 N. 4	100 USPQ2d 1868, 1873 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	efficiencies realized by stipulations defeated by submission of excessive records	705 N. 5	100 USPQ2d 1868, 1873 (TTAB 2011)
UMG Recordings, Inc. v. Mattel, Inc.	despite stipulations, opposer filed 25 pages of objections and applicant filed 100 pages of objections, essentially subverting the steps taken to streamline the process and burdening the Board; Board further set out specific objections as examples of what it overruled	707.03(a) N. 1	100 USPQ2d 1868, 1875-77
Vital Pharmaceuticals, Inc. v. Kronholm	standing established because pleaded registrations are of record on a motion for involuntary dismissal	309.03(b) N. 8	99 USPQ2d 1708, 1712 (TTAB 2011)

Vital Pharmaceuticals, Inc. v. Kronholm	priority not at issue on a motion for involuntary dismissal where pleaded registrations were made of record with notice of opposition	309.03(c) N. 44	99 USPQ2d 1708, 1712 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	pleaded registrations of record because copies from USPTO databases were submitted with notice of opposition	317 N. 4	99 USPQ2d 1708, 1709 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	"The Board construes a motion to extend an expired period as a motion to reopen such period."	509.01 N. 2	99 USPQ2d 1708, 1710 n.10 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	no excusable neglect to reopen testimony based on purported settlement discussions	534.02 N. 5	99 USPQ2d 1708, 1711 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	For stated purpose of a show cause order	536 N. 1	99 USPQ2d 1708, 1709-10 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	For stated policy when plaintiff responds to show cause order	536 N. 2	99 USPQ2d 1708, 1710 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	For stated proposition that a late-filed brief may not be accepted & time to file a brief may not be reset	536 N. 3	99 USPQ2d 1708, 1710 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	For stated proposition that plaintiff, if it seeks to file its brief late, should move to reopen time to file brief	536 N. 5	99 USPQ2d 1708, 1710-11 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	explanation of briefing schedule had motion to reopen testimony and/or alternative motion to reopen time to file a brief been granted	536 N. 6	99 USPQ2d 1708, 1711 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	opposer's pleaded registrations of record with notice of opposition and applicant made limited admissions in its answer	536 N. 8	99 USPQ2d 1708, 1711-12 (TTAB 2011)
Vital Pharmaceuticals, Inc. v. Kronholm	pleaded registrations of record because copies from USPTO databases were submitted with notice of opposition	704.03(b)(1)(A) N. 2	99 USPQ2d 1708, 1709 (TTAB 2011)
Weatherford/Lamb, Inc. v. C&J Energy Services, Inc.	Office action suspending plaintiff's pending application pending possible refusal based on alleged likelihood of confusion with defendant's registration made of record	309.03(b) N. 10	96 USPQ2d 1834, 1837 (TTAB 2010)
Zachry Infrastructure LLC v. American	no claim preclusion based on district court's determination because civil action focused respective uses and	309.03(c) N. 35	101 USPQ2d 1249 (TTAB 2011)

Infrastructure, Inc.	rights to use while Board proceeding focus on right to registration; issue preclusion based on district court determination found; no claim preclusion based on abandonments in related opposition because trademark owner allowed to make decision on which oppositions to defend		
Zachry Infrastructure LLC v. American Infrastructure, Inc.	district court may have lacked jurisdiction to entertain a counterclaim to refuse registration because the involved mark was the subject of an application, not a registration	510.02(a) N. 2	101 USPQ2d 1249, 1253 n.6 (TTAB 2011)
Zachry Infrastructure LLC v. American Infrastructure, Inc.	no claim preclusion based on district court's determination because civil action focused respective uses and rights to use while Board proceeding focus on right to registration; issue preclusion based on district court determination found	510.02(a) N. 2	101 USPQ2d 1249, 1253-54 (TTAB 2011)
Zachry Infrastructure LLC v. American Infrastructure, Inc.	unconsented motion to amend to Supplemental Register deferred to summary judgment or final hearing	514.01 N. 2	101 USPQ2d 1249, 1255-56 (TTAB 2011)
Zachry Infrastructure LLC v. American Infrastructure, Inc.	unconsented motion to amend to Supplemental Register deferred to summary judgment or final hearing	514.03 N. 3	101 USPQ2d 1249, 1255-56 (TTAB 2011)
Zachry Infrastructure LLC v. American Infrastructure, Inc.	no estoppel where certain applications expressly abandoned after civil action because they were filed prior to commencement of oppositions on related applications and an opposer faced with oppositions against more than one application should be able to choose which opposition to defend	602.01 N. 6	101 USPQ2d 1249, 1254-55 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	claim preclusion barred petitions to cancel against two registrations but not a third registration; "defendant preclusion" does not apply to facts of case and further discussed in contrast to "plaintiff preclusion"	309.03(c) N. 35	98 USPQ2d 1106 (TTAB 2011)
Zoba International	claim preclusion barred petitions to	311.02(b) N. 2	98 USPQ2d

Corp. v. DVD Format/LOGO Licensing Corp.	cancel against two registrations but not a third registration; "defendant preclusion" does not apply to facts of case and further discussed in contrast to "plaintiff preclusion"		1106 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	motion to dismiss considered as one for summary judgment where it asserts claim preclusion	503.04 N. 1	98 USPQ2d 1106, 1108 n.4 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	Board previously informed parties that motions to dismiss would be treated as motions for summary judgment	503.04 N. 4	98 USPQ2d 1106, 1108 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	because two of three cancellations dismissed, remaining cancellation no longer considered to be consolidated and shall proceed as a single proceeding	511 N.10	98 USPQ2d 1106, 1115 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	motion to dismiss considered as one for summary judgment where it asserts claim preclusion	528.02 N. 2	98 USPQ2d 1106, 1108 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	evidence submitted in support of or in opposition to a motion for summary judgment is of record only for consideration of such motion	528.05(a)(1) N. 8	98 USPQ2d 1106, 1115 n.10 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	order denying motion for summary judgment as to one of three cancellation proceedings is interlocutory in nature and not yet appealable	901.02(a) N. 2	98 USPQ2d 1106, 1115 n.12 (TTAB 2011)
Zoba International Corp. v. DVD Format/LOGO Licensing Corp.	order granting summary judgment as to two of three cancellation proceedings is a final decision of the Board which may be appealed	901.02(a) N. 3	98 USPQ2d 1106, 1115 n.11 (TTAB 2011)