

**§ 41.105 Ex parte communications.**

An ex parte communication about a contested case with a Board member or a Board employee conducting the proceeding is not permitted.

**§ 41.106 Filing and service.**

(a) *General format requirements.* (1) The paper used for filings must be durable and white. A party must choose to file on either A4-sized paper or 8½ inch × 11 inch paper except in the case of exhibits that require a larger size in order to preserve details of the original. A party may not switch between paper sizes in a single proceeding. Only one side of the paper may be used.

(2) In papers, including affidavits, created for the proceeding:

(i) The ink must be black or must otherwise provide an equivalently permanent, dark, high-contrast image on the paper. The quality of the printing must be equivalent to the quality produced by a laser printer. Either a proportional or monospaced font may be used, but the proportional font must be 12-point or larger and a monospaced font must not contain more than 4 characters per centimeter (10 characters per inch). Case names must be underlined or italicized.

(ii) Double spacing must be used except in headings, signature blocks, and certificates of service. Block quotations may be single-spaced and must be indented. Margins must be at least 2.5 centimeters (1 inch) on all sides.

(b) *Papers other than exhibits.*—(1) *Cover sheet.* (i) The cover sheet must include the caption the Board specifies for the proceeding, a header indicating the party and contact information for the party, and a title indicating the sequence and subject of the paper. For example, “JONES MOTION 2, For benefit of an earlier application”.

(ii) If the Board specifies a color other than white for the cover sheet, the cover sheet must be that color.

(2) Papers must have two 0.5 cm (¼ inch) holes with centers 1 cm (½ inch) from the top of the page and 7 cm (2¾ inch) apart, centered horizontally on the page.

(3) *Incorporation by reference; combined papers.* Arguments must not be incorporated by reference from one paper into another paper. Combined motions, oppositions, replies, or other combined papers are not permitted.

(4) *Citation of authority.*

(i) Citations to authority must include: (A) A *United States Reports* citation for any Supreme Court case.

(B) *Parallel citation of cases* to both the West Reporter System and to the United States Patents Quarterly

whenever a case is published in both. Other parallel citations are discouraged.

(C) *Pinpoint citations* whenever a specific holding or portion of an authority is invoked.

(ii) Non-binding authority should be used sparingly. If the authority is not an authority of the Office and is not reproduced in one of the reporters listed in paragraph (c)(4)(i) of this section, a copy of the authority should be filed with the first paper in which it is cited.

(5) *Exhibits.* Additional requirements for exhibits appear in § 41.154(c).

(c) *Working copy.* Every paper filed must be accompanied by a working copy marked “APJ Copy”.

(d) *Specific filing forms.*—(1) *Filing by mail.* A paper filed by mail must be addressed to Mail Stop INTERFERENCE, Board of Patent Appeals and Interferences, United States Patent and Trademark Office, PO Box 1450, Alexandria, Virginia 22313–1450. A paper filed using the EXPRESS MAIL® service of the United States Postal Service will be deemed to be filed as of “date-in” on the EXPRESS MAIL® mailing label; otherwise, mail will be deemed to be filed as of the stamped date of receipt at the Board.

(2) *Other modes of filing.* The Board may authorize other modes of filing, including electronic filing, and may set conditions for the use of such other modes.

(e) *Service.* (1) Papers filed with the Board, if not previously served, must be served simultaneously on every opposing party except as the Board expressly directs.

(2) If a party is represented by counsel, service must be on counsel.

(3) Service must be by EXPRESS MAIL® (an expedited-delivery service of the United States Postal Service) or by means at least as fast and reliable as EXPRESS MAIL®. Electronic service is not permitted without Board authorization.

(4) The date service is received does not count in computing the time for responding.

(f) *Certificate of service.*

(1) Papers other than exhibits must include a certificate of service as a separate page at the end of each paper that must be served on an opposing party.

(2) Exhibits must be accompanied by a certificate of service, but a single certificate may accompany any group of exhibits submitted together.

(3) A certificate of service must state:

(i) The name of each paper served,  
(ii) The date and manner of service, and

(iii) The name and address of every person served.

(4) A certificate made by a person other than a registered patent practitioner must be in the form of an affidavit.

**§ 41.107 [Reserved]****§ 41.108 Lead counsel.**

(a) A party may be represented by counsel. The Board may require a party to appoint a lead counsel. If counsel is not of record in a party’s involved application or patent, then a power of attorney for that counsel for the party’s involved application or patent must be filed with the notice required in paragraph (b) of this section.

(b) Within 14 days of the initiation of each contested case, each party must file a separate notice identifying its counsel, if any, and providing contact information for each counsel identified or, if the party has no counsel, then for the party. Contact information must, at a minimum, include:

(1) A mailing address;

(2) An address for courier delivery when the mailing address is not available for such delivery (for example, when the mailing address is a Post Office box);

(3) A telephone number;

(4) A facsimile number; and

(5) An electronic mail address.

(c) A party must promptly notify the Board of any change in the contact information required in paragraph (b).

**§ 41.109 Access to and copies of Office records.**

(a) *Request for access or copies.* Any request from a party for access to or copies of Office records directly related to a contested case must be filed with the Board. The request must precisely identify the records and in the case of copies include the appropriate fee set under § 1.19(b) of this title.

(b) *Authorization of access and copies.* Access and copies will ordinarily only be authorized for the following records:

(1) The application file for an involved patent;

(2) An involved application; and

(3) An application for which a party has been accorded benefit under subpart E of this part.

(c) *Missing or incomplete copies.* If a party does not receive a complete copy of a record within 21 days of the authorization, the party must promptly notify the Board.

**§ 41.110 Filing claim information.**

(a) *Clean copy of claims.* Within 14 days of the initiation of the proceeding, each party must file a clean copy of its involved claims and, if a biotechnology material sequence is a limitation, a clean copy of the sequence.