

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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dmd/tjq/al

Mailed: May 4, 2015

In re Puzzle Brewing Company

Serial No. 86263566

Filed: 4/25/2014

**Denise M. DelGizzi,  
Chief Clerk of the Board:**

Applicant's request for remand, filed April 15, 2015, is noted. Applicant seeks remand to introduce into the record evidence in Exhibits A-M attached to the appeal brief. Applicant states that "This omission of evidence from the earlier proceeding was made in error, and the omission was first identified in the Examining Attorney's Appeal Brief". The Examining Attorney has objected to the evidence, which comprises references to 45 pairs of marks, articles from Internet web sites, and data in various graphs and tables.

The record in the application should be complete prior to the filing of an appeal. Trademark Rule 2.142(d). A request for remand must include a showing of good cause. In determining whether good cause has been shown, the Board will consider both the reason given and the point in the appeal at which the request for remand is made. TBMP § 1209.04 (2014). With respect to a request

for remand to make additional evidence of record, the length of the delay in making the request after the reason for the remand becomes known, or the point in the appeal process at which the request for remand is made, will be considered in the determination of whether good cause exists. Generally, the later in the appeal proceeding that the request for remand is filed, the stronger the reason that must be given for good cause to be found. TBMP § 1207.02.

Both applicant and the examining attorney have filed their briefs. Thus, the appeal is in a very late stage and, consequently, applicant must provide a strong reason to demonstrate good cause.

The reason applicant has provided is only that the evidence was omitted from the earlier prosecution stage in error. Applicant has failed to establish that the evidence was “not previously available.” Certainly it appears that at least some of the evidence submitted by applicant was available earlier. In any event, even if the additional evidence was not previously available, the briefing stage is clearly at a point at which prosecution must come to an end.

Accordingly, applicant’s request for remand is denied. A final decision on the merits of the appeal will issue in due course.