

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

Mailed: February 10, 2016

Cancellation No. 92055094

*Swig, Inc.*

*v.*

*Temperance Distilling Company, Inc.*

**Geoffrey M. McNutt, Interlocutory Attorney:**

In an order dated September 2, 2014, the Board suspended proceedings to allow the parties sufficient time to complete the testimony depositions on written questions of Molly and Brian Pearson.<sup>1</sup>

The Board further instructed Petitioner to promptly advise the Board when the testimony depositions were completed, so that the Board could issue an order resetting remaining trial dates. In the seventeen months since the Board's order, neither Petitioner nor Respondent has provided an update regarding the status of the testimony depositions on written questions of Molly and Brian Pearson, or their trial efforts generally.

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<sup>1</sup> Molly and Brian Pearson are non-party witnesses whose testimony Petitioner sought to take subject to subpoenas. The Board has no jurisdiction over nonparty depositions, or adverse witness depositions, taken by subpoena. *See* TBMP § 703.01(f)(2) and cases cited therein.

The parties are allowed until **THIRTY DAYS** from the mailing date of this order to inform the Board of the status of the testimony depositions on written questions of Molly and Brian Pearson, failing which proceedings will resume automatically on the following schedule.

Proceedings Resume	March 16, 2016
30-day testimony period for plaintiff's testimony to close <sup>2</sup>	May 16, 2016
Defendant/Counterclaim Plaintiff's Pretrial Disclosures	May 31, 2016
30-day testimony period for defendant and plaintiff in the counterclaim to close	July 15, 2016
Counterclaim Defendant's and Plaintiff's Rebuttal Disclosures Due	July 30, 2016
30-day testimony period for defendant in the counterclaim and rebuttal testimony for plaintiff to close	September 13, 2016
Counterclaim Plaintiff's Rebuttal Disclosures Due	September 28, 2016
15-day rebuttal period for plaintiff in the counterclaim to close	October 28, 2016
Brief for plaintiff due	December 27, 2016
Brief for defendant and plaintiff in the counterclaim due	January 26, 2017
Brief for defendant in the counterclaim and reply brief, if any, for plaintiff due	February 25, 2017

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<sup>2</sup> The Board presumes that Petitioner previously served its pretrial disclosures. If this is not the case, Petitioner must do so by no later than March 31, 2016.

Reply brief, if any, for plaintiff in the  
counterclaim due

March 12, 2017

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.