

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: March 12, 2015

Cancellation No. 92060981

Diageo North America, Inc.

v.

Sandra M Hewitt-Bell DBA Hewitt-
Bell Wine Cellars

Nicole Thier, Paralegal Specialist:

On March 3, 2015, petitioner served its petition to cancel. On March 10, 2015, petitioner filed an amended petition to cancel.

Pursuant to Fed. R. Civ. P. 15(a)(1), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f), whichever is earlier. *See* Trademark Rule 2.107/2.115; TBMP § 507.01. However, as a practical matter, because the time to answer set by the Board's institution order is 40 days, a plaintiff may amend its complaint once as a matter of course beyond the initial 21 days from serving it until the defendant files either an answer or a motion under Fed. R. Civ. P. 12(b), (e) or (f). *See* TBMP § 507.02.

Petitioner's amended petition to cancel was filed as a matter of course, and is accepted as opposer's/petitioner's operative pleading in this proceeding. *See* Fed. R. Civ. P. 15(a)(1)(A) and (B).

Respondent is allowed until April 20, 2015 in which to file an answer to the amended notice of opposition/petition to cancel.

Accordingly, conferencing, discovery and trial dates are reset as follows:

Time to Answer	4/20/2015
Deadline for Discovery Conference	5/20/2015
Discovery Opens	5/20/2015
Initial Disclosures Due	6/19/2015
Expert Disclosures Due	10/17/2015
Discovery Closes	11/16/2015
Plaintiff's Pretrial Disclosures	12/31/2015
Plaintiff's 30-day Trial Period Ends	2/14/2016
Defendant's Pretrial Disclosures	2/29/2016
Defendant's 30-day Trial Period Ends	4/14/2016
Plaintiff's Rebuttal Disclosures	4/29/2016
Plaintiff's 15-day Rebuttal Period Ends	5/29/2016

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.