

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

Mailed: May 4, 2017

*In re Intercontinental Exchange Holdings,  
Inc.*

Serial No. 86659053  
Filed: 6/11/2015

By the Trademark Trial and Appeal Board

Applicant filed a request for remand pursuant to Trademark Rule 2.142(d) on May 3, 2017, six days prior to the scheduled oral hearing on May 9, 2017. The reason given for seeking remand is to allow Applicant to introduce evidence of Applicant's linguist expert, Dr. Ron Butters, opining on issues relevant to the Examining Attorney's genericness and descriptiveness refusals pertaining to Applicant's marks.

A request to remand for additional evidence must include a showing a good cause therefor and be accompanied by the additional evidence sought to be introduced. 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, is 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 Section 1207.02. Although Applicant stated in its request for

remand that this evidence was not previously available, it appears that Applicant did not attempt to obtain that evidence until after prosecution had ended.

The appeal is at a very late stage, with an oral hearing having been scheduled for May 9, 2017. As a result, for good cause to be found the reason must be strong indeed. Even when evidence was not previously available, good cause may not always be found. Applicant's request for remand is denied, and no consideration will be given to the additional evidence filed.

Given the very advanced stage of this proceeding, we find that Applicant has not shown good cause for remanding the application. Further, Applicant's statement "for the purposes of providing the Examining Attorney, and if necessary, the Board, the most complete record for analyzing the issues impacting the pending refusal of the marks" will not be considered. The Board does not consider evidence that is not of record, and it may be made of record at this stage of the proceeding only through a request for remand, which we have denied.

The hearing scheduled for May 9, 2017 will go forward.