

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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September 17, 2018

Opposition No. 91239524

*Eating Well, Inc.*

*v.*

*DEW - Drink Eat Well, LLC*

**Lalita Webb, Paralegal Specialist:**

Opposers' corrected consented motion filed August 17, 2018, to extend disclosure, discovery and trial dates is noted.

It has come to the attention of the Board that the trial schedule set forth in Opposer's electronically generated May 23, 2018, and June 21, 2018 motions, did not take into consideration the initial disclosure deadline. Opposer's attention is directed to the statement on the ESTTA website, which informs the parties that they should not use the consent motions forms to extend or suspend until after the deadline for initial disclosures. *See* ESTTA Important User Guideline II. Instead the parties should file its motions to extend utilizing the general filings tab.

In view thereof, the Board's orders of May 23, 2018, and June 21, 2018, are hereby vacated. Trial dates are reset as follows:

Initial Disclosures Due

11/16/2018

Expert Disclosures Due	3/16/2019
Discovery Closes	4/15/2019
Plaintiff's Pretrial Disclosures Due	5/30/2019
Plaintiff's 30-day Trial Period Ends	7/14/2019
Defendant's Pretrial Disclosures Due	7/29/2019
Defendant's 30-day Trial Period Ends	9/12/2019
Plaintiff's Rebuttal Disclosures Due	9/27/2019
Plaintiff's 15-day Rebuttal Period Ends	10/27/2019
Plaintiff's Opening Brief Due	12/26/2019
Defendant's Brief Due	1/25/2020
Plaintiff's Reply Brief Due	2/9/2020
Request for Oral Hearing (optional) Due	2/19/2020

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).