

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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JLE/wbc

April 27, 2020

Opposition No. 91249263

Zephyr Green Coffee LLC

v.

Aaron Broumas

Wendy Cohen, Interlocutory Attorney:

The parties' joint motion, filed April 22, 2020, to extend disclosure, discovery, and trial dates is noted. Because the times for expert disclosures and the close of discovery have passed, the Board treats this motion as one to reopen those periods and reset the remainder of the dates accordingly.

Parties may modify the discovery and trial schedule, including the deadline for making disclosures, if the parties file, and the Board approves, a stipulation or motion to that effect. *See* 37 C.F.R. § 2.120(a)(2)(iv); TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) § 403.01 (2019). *See also* TBMP § 501.01 (parties may stipulate to a wide variety of matters, including reopening of times).

However, the parties have not provided any explanation for their request to adopt a non-standard proceeding schedule, which imposes administrative burdens on the

Board.¹ Accordingly, the parties' joint, stipulated motion is **granted** as modified below.²

Trial dates are reset as follows:

Expert Disclosures Due	6/15/2020
Discovery Closes	7/15/2020
Plaintiff's Pretrial Disclosures Due	8/29/2020
Plaintiff's 30-day Trial Period Ends	10/13/2020
Defendant's Pretrial Disclosures Due	10/28/2020
Defendant's 30-day Trial Period Ends	12/12/2020
Plaintiff's Rebuttal Disclosures Due	12/27/2020
Plaintiff's 15-day Rebuttal Period Ends	1/26/2021
Plaintiff's Opening Brief Due	3/27/2021
Defendant's Brief Due	4/26/2021
Plaintiff's Reply Brief Due	5/11/2021
Request for Oral Hearing (optional) Due	5/21/2021

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, matters in evidence, the manner and timing of taking testimony, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be

¹ *See, e.g.*, TBMP §§ 509.01(a) (“A motion to extend must set forth with particularity the facts said to constitute good cause for the requested extension”); 509.01(b)(1) (“A party moving to reopen its time to take required action must set forth with particularity the detailed facts upon which its excusable neglect claim is based”) and authorities cited therein.

² Should the parties later determine that they are unable to complete discovery or trial in the time allotted by the Board's standard schedule, they may file a motion, along with an explanation for the extension or reopening of time sought, with the Board. *See* TBMP §§ 509.01(a); 509.01(b)(1).

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).

TIPS FOR FILING EVIDENCE, TESTIMONY, OR LARGE DOCUMENTS

The Board requires each submission to meet the following criteria before it will be considered: 1) pages must be legible and easily read on a computer screen; 2) page orientation should be determined by its ease of viewing relevant text or evidence, for example, there should be no sideways or upside-down pages; 3) pages must appear in their proper order; 4) depositions and exhibits must be clearly labeled and numbered – use separator pages between exhibits and clearly label each exhibit using sequential letters or numbers; and 5) the entire submission should be text-searchable. Additionally, submissions must be compliant with Trademark Rules 2.119 and 2.126. Submissions failing to meet all of the criteria above may require re-filing. **Note:** Parties are strongly encouraged to check the entire document before filing.³ The Board will not extend or reset proceeding schedule dates or other deadlines to allow time to re-file documents. For more tips and helpful filing information, please visit the [ESTTA help](#) webpage.

³ To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.