

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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RSC/tdc

May 12, 2020

Cancellation No. 92067794 (parent)

Cancellation No. 92069499

*Joshua S. Schoonover*

*v.*

*The Burton Corporation*

**Rebecca Stempien Coyle, Interlocutory Attorney:**

In response to the Board's January 21, 2020 order, Petitioner filed a supplement to his expert disclosures of Mr. Bost and notification of service. Inasmuch as Petitioner has indicated he has served an amended expert witness disclosure on Respondent, proceedings herein remain **suspended** until **July 2, 2020**, for the sole purpose of affording Respondent the opportunity to take discovery limited to Petitioner's designated expert witness.

If Respondent intends to retain a rebuttal expert, it has **THIRTY DAYS** from the date of this order to notify Petitioner and the Board and to serve on Petitioner its expert disclosures, if it has not already done so.

To the extent either party requires an extension of the suspension period to complete the discovery permitted above, such party may file a motion to extend the suspension period.

If all discovery regarding designated expert witnesses is completed prior to the conclusion of the suspension period, the parties must notify the Board so that the Board may reset all subsequent trial dates. Otherwise, proceedings herein shall resume automatically, and without any further notice from the Board, on the following schedule.<sup>1</sup>

Proceedings Resume	7/2/2020
Plaintiff's Pretrial Disclosures Due	8/16/2020
Plaintiff's 30-day Trial Period Ends	9/30/2020
Defendant's Pretrial Disclosures Due	10/15/2020
Defendant's 30-day Trial Period Ends	11/29/2020
Plaintiff's Rebuttal Disclosures Due	12/14/2020
Plaintiff's 15-day Rebuttal Period Ends	1/13/2021
Plaintiff's Opening Brief Due	3/14/2021
Defendant's Brief Due	4/13/2021
Plaintiff's Reply Brief Due	4/28/2021
Request for Oral Hearing (optional) Due	5/8/2021

The Federal Rules of Evidence generally 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,

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<sup>1</sup> The Board assumes for purposes of this order that Petitioner has complied with all the requirements concerning an expert witness disclosure under Fed. R. Civ. P. 26(a)(2), including service of an expert witness report, concurrently with its expert witness disclosure, upon Respondent.

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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).