

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3514

Taylor

Mailed: April 13, 2004

Opposition No. 91124788

Nation/Ruskin, Inc.

v.

Nice-Pak Products, Inc.

On July 31, 2003, the Board entered a notice of default in this case. In a timely response, applicant contends that good cause exists for not entering default judgment in this case. More specifically, applicant argues that its failure to file a timely answer was caused by the inadvertent failure of its counsel's docketing clerk to note the time for filing an answer as set forth in the institution notice; and that there would be no prejudice to opposer by reinstating this case. Applicant also indicates that it submitted the required answer should its motion to set aside the notice of default be granted.

In view of the foregoing, the Board finds that applicant has shown cause sufficient to set aside the notice of default. However, the answer was never associated with the proceeding file. Accordingly, applicant is allowed

until **thirty days** from the mailing date of this order to file a copy of the answer with the Board.

Ordinarily, the Board would reset the discovery and trial dates to prevent any prejudice to the parties that may have been caused by the delay in considering applicant's motion. However, as evidenced by opposer's consented motion (filed January 16, 2004) to extend the discovery period, it appears that the parties have continued on the previously set schedule. Accordingly, trial dates are reset to those indicated in opposer's consented motion to extend and repeated below.

THE PERIOD FOR DISCOVERY TO CLOSE:	CLOSED
30-day testimony period for party in position of plaintiff to close:	April 23, 2004
30-day testimony period for party in position of defendant to close:	June 20, 2004
15-day rebuttal testimony period to close:	August 4, 2004

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 Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.