

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

Mailed: January 15, 2003

Opposition No. 91153135

BLUEAIR, INC.

v.

HAMILTON BEACH/PROCTOR-
SILEX, INC.

David Mermelstein, Attorney:

The notice of opposition was filed on August 29, 2002. Proceedings were instituted on October 17, 2002, and applicant allowed forty days in which to file an answer. No answer having appeared in the record, on January 8, 2002, the Board entered notice of default against applicant. However applicant had on November 22, 2002, prior to the due date for applicant's answer (but not associated with the file prior to the issuance of the notice of default), filed a motion to strike the notice of opposition, primarily for opposer's failure to number the paragraphs.

Opposer has filed a response to the motion to strike, as well as an amended pleading.

The notice of default issued January 8, 2002, is VACATED.

Opposer's amended notice of opposition is noted. Fed. R. Civ. P. 15(a) ("A party may amend the party's pleading

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once as a matter of course at any time before a responsive pleading is served...") Opposer's amended pleading appears to conform generally to the Board's rules with respect to form.

Accordingly, whatever the merits of applicant's motion to strike, the motion is DENIED as moot. Applicant is allowed until THIRTY DAYS from the mailing date of this order in which to answer the notice of opposition.

Discovery is open and all other dates remain as previously set.

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