

**UNITED STATES PATENT AND TRADEMARK
OFFICE**
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: October 28, 2005

Opposition No. 91165451

**New Balance Athletic Shoe,
Inc.**

v.

S.A.S.C.O. Trading, Inc.

Cheryl Butler, Attorney, Trademark Trial and Appeal Board:

Applicant's answer to the notice of opposition was due by July 16, 2005. On August 5, 2005, opposer filed a motion for default judgment for applicant's failure to file a timely answer. Applicant, on August 26, 2005, responded to opposer's motion. Applicant's response is accompanied by a copy of its answer.

In its response to opposer's motion, applicant argues that its principal was overseas for about 2 months, including the time the answer was due, and until August 2005. Consequently, according to applicant, it did not have an opportunity to file its answer in a timely manner.

Where a defendant that has failed to file a timely answer to the complaint responds to a motion for default judgment by filing a satisfactory showing of good cause why default judgment should not be entered, the Board will not enter default judgment. See Fed. R. Civ. P. 55(c). Good cause is usually found when the defendant shows that (1) the delay in filing an answer was not the result of willful conduct or gross neglect on the part of the

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defendant, (2) the plaintiff will not be substantially prejudiced by the delay, and (3) the defendant has a meritorious defense to the actions. See TBMP Section 312.02 (2nd ed. rev. 2004).

Here, it does not appear that the delay in filing the answer was due to willful conduct or gross neglect; the delay is minimal and does not substantially prejudice opposer; and, by filing an answer, applicant shows it intends to defend itself in this proceeding.

Accordingly, opposer's motion for default judgment is denied. Applicant's answer is noted and entered.

Proceedings are resumed. Discovery and trial dates are reset as indicated below:

THE PERIOD FOR DISCOVERY TO CLOSE:	May 16, 2006
30-day testimony period for party in position of plaintiff to close:	August 14, 2006
30-day testimony period for party in position of defendant to close:	October 13, 2006
15-day rebuttal testimony period to close:	November 27, 2006

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. Rule 2.125.

Briefs shall be filed in accordance with Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Rule 2.129.

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