

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

Lykos

Mailed: April 21, 2006

Opposition No. 91168271

Zimmer Technology, Inc.

v.

Surgistar, Inc.

Angela Lykos, Interlocutory Attorney

On February 24, 2006, the Board issued an order in which indicated he would allow applicant time to clarify its February 2, 2006 submission, failing which the Board would consider opposer's motion for default judgment filed February 14, 2006. According to Board records, applicant has failed to submit a response thereto. As such, the Board will now consider opposer's motion for default judgment against applicant for failure to file an answer. The motion is uncontested.¹

¹ If a defendant fails to file an answer to a complaint during the time allowed therefor, the Board, on its own initiative, may issue a notice of default allowing the defendant time to show cause why default judgment should not be entered against it. The issue of whether default judgment should be entered against a defendant for failure to file an answer may also be raised by means of a motion filed by the party in the position of plaintiff. In such cases, the motion may serve as a substitute for the Board's issuance of a notice of default.

Answer was due on February 6, 2006. A review of the record shows that an answer has not been filed. Inasmuch as applicant failed to file an answer in this case, and failed to respond to opposer's motion in any manner, the motion for default judgment is granted. See Trademark Rule 2.127(a). Accordingly, judgment is hereby entered against applicant, the notice of opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 55 and Trademark Rule 2.127(a).

***By the Trademark Trial
and Appeal Board***