

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

Mailed: July 5, 2007

Opposition No. 91176496

Outback/Fleming's LLC

v.

Fleming Corporation of Kansas

Cindy B. Greenbaum, Managing Interlocutory Attorney:

On May 31, 2007, applicant was allowed thirty days to show cause why the Board should not enter default judgment against applicant for applicant's failure to file a timely answer.

Applicant's response, filed June 12, 2007, establishes that applicant's failure to file a timely answer in this opposition proceeding was neither willful nor unduly prejudicial, but due to applicant's non-receipt of the notice of opposition from the Board. *See Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991).

The Board is persuaded that the foregoing reason constitutes good cause to set aside applicant's default. Accordingly, the notice of default is discharged.

Applicant's answer, filed on June 27, 2007, is accepted and made of record in this proceeding.

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Dates remain as set.