

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

Winter/rr

Mailed: December 26, 2007

Opposition No. 91178890

VVI

v.

Siemens Medical Solutions USA, Inc.

Elizabeth J. Winter, Interlocutory Attorney:

On November 8, 2007, the Board issued a notice of default to applicant in view of its failure to timely answer the notice of opposition. Applicant filed a response thereto on December 10, 2007, accompanied by its answer, explaining that its failure to timely file an answer was due to either human error in entering the deadline for filing the answer and/or a malfunction of the computerized docketing system of applicant's counsel. Applicant also contends that it has a meritorious defense to the claim(s) set forth in the notice of opposition.

If a defendant who has failed to file a timely answer to the complaint responds to a notice of default by filing a satisfactory showing of good cause why default judgment should not be entered against it, the Board will set aside

Opposition No. 91178890

the notice of default. See Fed. R. Civ. P. 55(c); and *Paolo's Associates Limited Partnership v. Paolo Bodo*, 21 USPQ2d 1899 (Comm'r 1990); and *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991). See also TBMP § 312.02 (2d ed. rev. 2004).

In this case, the Board finds that applicant's failure to timely file its answer to the notice of opposition was not the result of willful inattention or bad faith; and that opposer is not prejudiced by applicant's late filing.

In view of defendant's continued interest in this case, notice of default is **discharged** and applicant's answer to the notice of opposition is made of record and is accepted as its responsive pleading herein.

Discovery and trial dates remain as set.



News from the TTAB:

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>

http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB

Opposition No. 91178890

inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stdagmnt.htm>