

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

em/Dunn

Mailed: June 13, 2008

Opposition No. 91181712

The Baby Einstein Company,
LLC

v.

Herbert B. Reinert

Elizabeth A. Dunn, Attorney:

Opposer's consented motion filed May 7, 2008, to extend applicant's time, and the conferencing, disclosure, discovery and trial dates is noted.

On March 13, 2008, the Board issued a notice of default for applicant's failure to file an answer in this proceeding. On April 11, 2008, applicant filed, via ESTTA, a consented form motion to suspend which was electronically granted on the same day. The motion (i) did not address or in any way attempt to discharge notice of default; (ii) used the wrong form, which did not provide the required conferencing and disclosure dates; and (iii) apparently was filed by counsel making an appearance on behalf of applicant, who did not provide an address to which Board orders should be mailed.

In view of the settlement negotiations between the parties, applicant has shown good cause for his failure to file an answer. See *Instruments SA, Inc. v. ASI Instruments, Inc.*, 53 USPQ2d 1925 (TTAB 1999). Notice of default is set aside.

Applicant is advised that this proceeding was filed after November 1, 2007, is subject to all the new rules referenced at the end of this order, and that care must be exercised in using the correct forms when filing via ESTTA.

Counsel for applicant is allowed until ten days from the mailing date of this order to notify the Board of its mailing address, so that the Board may update its records and make counsel's address the correspondence address of record for applicant.

The May 7, 2008 consented motion to extend is granted.

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

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/stndagmnt.htm>