

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

24, 2009

Mailed: January

Opposition No. 91182905

The Cradle Society

v.

Hilary J. Zalon

Jennifer Krisp, Interlocutory Attorney:

On December 30, 2008, the Board issued a notice of default under Fed. R. Civ. P. 55(a) for applicant's failure to file an answer to the notice of opposition. On the same date, applicant filed a response thereto, stating that the parties are engaged in ongoing settlement negotiations, and requesting a two-month suspension for settlement.

If an applicant who has failed to file a timely answer 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 the notice of default. Good cause why default judgment should not be entered against an applicant for failure to file a timely answer is usually found upon a showing that (1) the delay in filing an answer was not the result of willful conduct or gross neglect on the part of applicant, (2) opposer will not be substantially prejudiced by the delay, and (3) applicant has a meritorious defense to the action. *See DeLorme*

Publishing Co v. Eartha's Inc., 60 USPQ2d 1222, 1224 (TTAB 2000). See also TBMP § 312.02 (2d ed. rev. 2004).

Inasmuch as both the brief history of this proceeding and applicant's December 30, 2008 response indicate that the parties are engaged in efforts to resolve and settle this matter, applicant's failure to file an answer does not appear to have been due to its own willful conduct. Further, the record does not indicate that opposer will be prejudiced by the delay inasmuch as the delay itself has been commensurate with the parties' settlement efforts.

Under these circumstances, applicant has demonstrated good cause to vacate the notice of default. Accordingly, the December 30, 2008 notice of default is hereby vacated.

To the extent that applicant's response constitutes a motion for a two-month suspension of proceedings to accommodate a continuation of settlement efforts, said motion is granted. Accordingly, proceedings are hereby suspended.

Proceedings will resume March 27, 2009. Applicant is allowed thirty (30) days from the date of resumption in which to answer the notice of opposition. Accordingly, time to answer and all subsequent deadlines and dates are reset as follows:

Time to Answer	4/27/2009
Deadline for Discovery	
Conference	5/27/2009
Discovery Opens	5/27/2009

Initial Disclosures Due	6/26/2009
Expert Disclosures Due	10/24/2009
Discovery Closes	11/23/2009
Plaintiff's Pretrial Disclosures	1/7/2010
Plaintiff's 30-day Trial Period Ends	2/21/2010
Defendant's Pretrial Disclosures	3/8/2010
Defendant's 30-day Trial Period Ends	4/22/2010
Plaintiff's Rebuttal Disclosures	5/7/2010
Plaintiff's 15-day Rebuttal Period Ends	6/6/2010

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. Trademark Rule 2.125.

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