

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

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Mailed: June 17, 2009

Opposition No. 91186494

Kraft Foods Global Brands
LLC

v.

Anthony Brown

Frances S. Wolfson, Interlocutory Attorney:

The parties have filed cross-motions for summary judgment in this case, which are pending consideration by the Board. Applicant's motion for summary judgment was filed on February 11, 2009. Opposer's combined response to the motion and cross-motion for summary judgment was filed on March 18, 2009. As a preliminary matter, however, this order addresses applicant's motion (filed March 16, 2009) for default judgment. The motion has been fully briefed.

Applicant bases his motion for default judgment on the ground that opposer failed to timely respond to applicant's motion for summary judgment.

Pursuant to Trademark Rule 2.127(e)(1), a party is allowed thirty days from the date of service of a summary judgment motion within which to file its response. Pursuant to Trademark Rule 2.119(c), when service of a motion is made by first-class mail, the date of mailing is considered the

date of service and the non-moving party has an additional 5 days within which to respond to the motion. Applicant states, in the certificate of service that accompanies its motion for summary judgment, "I hereby certify that a true and correct copy of the foregoing has been furnished via U.S. mail on this 11th day of Feb. 2009 to Kraft Foods Global Brands LLC..." Opposer's response to the motion for summary judgment was therefore due on March 18, 2009.¹

As noted above, the response was filed on March 18, 2009. Accordingly, opposer's response was timely filed and applicant's motion for default judgment is hereby denied.

Proceedings are suspended pending disposition of applicant's motion for summary judgment and opposer's cross-motion for summary judgment, retroactive to the date applicant's motion was filed. Any paper filed during the pendency of the motions which is not relevant thereto will be given no consideration. See Trademark Rule 2.127(d).

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>

¹There were 28 days in February 2009.

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>