

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

Mailed: December 18, 2008

Opposition No. 91186778

WestStar Ltd.

v.

Eric Haddad Koenig

**Robert H. Coggins,
Interlocutory Attorney:**

Answer was due in this case November 12, 2008. In lieu of an answer, applicant filed a motion on November 13, 2008, to suspend proceedings pending final determination of a civil action between the parties.¹ In addition to the request for suspension, the Board construes the motion as one to set aside applicant's technical default. See Fed. R. Civ. P. 55.

Technical Default

By way of the motion, applicant states that he has filed a civil action against the domain name on which opposer relies. Paragraph 10 of the complaint in the civil

¹ Civil Action No. 1:08-CV-1169-6BL-TRG, in the United States District Court for the Eastern District of Virginia, Alexandria Division, styled *Eric Haddad Koenig v. ALL.COM an Internet domain name*.

action, and paragraph 7 of the notice of opposition, reveal that opposer is alleged to be the owner of the domain name which is the defendant in the civil action. It is clear from the record that applicant's failure to file a timely answer in this opposition was neither willful nor unduly prejudicial, but due to applicant's filing a civil action in a district court and a motion with the Board to suspend these proceedings. The Board is persuaded that this constitutes good cause to vacate applicant's technical default. See *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991).

Suspension

The motion to suspend is granted as conceded. See Trademark Rules 2.127(a) and 2.117(a). Accordingly, proceedings are suspended pending final disposition of the civil action between the parties. Within twenty days after the final determination of the civil action, the parties shall so notify the Board so this case may be called up for appropriate action.

During the suspension period, the parties shall notify the Board of any address changes for the parties or their attorneys.