

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

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Mailed: July 15, 2009

Opposition No. 91190016

McDonald's Corporation

v.

Cheri McSherry

Cheryl Goodman, Interlocutory Attorney:

On June 26, 2009 the Board issued a notice of default for failure of applicant to timely file an answer. On June 29, 2009 applicant filed a request to extend time to file her answer to the notice of opposition.¹

Applicant states in the request to extend that she inadvertently missed the original deadline to file an answer to the notice of opposition.

The standard for setting aside notice of default is good cause. The Board finds good cause for setting aside default in view of applicant's inadvertent failure to answer.

¹ Applicant's motion to extend time does not indicate proof of service of a copy of same on counsel for opposer as required by Trademark Rule 2.119. In order to expedite this matter, a copy of said withdrawal is forwarded herewith to counsel for opposer.

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In view thereof, the Board's notice of default is hereby set aside and applicant's request to extend (reopen) time is granted.

Applicant is allowed until August 14, 2009 to file an answer to the notice of opposition. Trial dates, including conferencing and disclosure dates, are reset as indicated below:

Deadline for Discovery Conference	9/13/2009
Discovery Opens	9/13/2009
Initial Disclosures Due	10/13/2009
Expert Disclosures Due	2/10/2010
Discovery Closes	3/12/2010
Plaintiff's Pretrial Disclosures	4/26/2010
Plaintiff's 30-day Trial Period Ends	6/10/2010
Defendant's Pretrial Disclosures	6/25/2010
Defendant's 30-day Trial Period Ends	8/9/2010
Plaintiff's Rebuttal Disclosures	8/24/2010
Plaintiff's 15-day Rebuttal Period Ends	9/23/2010

It is noted that Cheri McSherry intends to represent itself in this proceeding. While Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes proceedings before the Board to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney.

In addition, Cheri McSherry should note that Trademark Rule 2.119(a) and (b) require that every paper filed in the Patent and Trademark Office in a proceeding before the Board

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must be served upon the attorney for the other party, or on the party if there is no attorney, and proof of such service must be made before the paper will be considered by the Board. Consequently, copies of all papers which ^ may subsequently file in this proceeding must be accompanied by a signed statement indicating the date and manner in which such service was made. The statement, whether attached to or appearing on the paper when filed, will be accepted as prima facie proof of service.

It is recommended that Cheri McSherry obtain a copy of the latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice, and is available for a fee from U.S. Government Printing Office on the World Wide Web at <http://bookstore.gpo.gov>.

Strict compliance with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.²

² The Trademark Trial and Appeal Board Manual of Procedure (TBMP) is also available on the World Wide Web at <http://www.uspto.gov>.