

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

DUNN

Mailed: January 8, 2010

Opposition No. 91191536

McDonald's Corporation

v.

McFest LLC

Elizabeth A. Dunn, Attorney (571-272-4267):

On October 15, 2009, the Board issued notice of default because no answer to the notice of opposition had been filed. On November 16, 2009, applicant filed a combined response and motion to reopen its time to answer, explaining that its failure to timely file its answer was attributable to a change in legal representation.

If a defendant who has failed to file a timely answer to the complaint 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. See Fed. R. Civ. P. 55(c); TBMP 312.02.

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In this case, the Board finds that applicant's failure to timely file its answer was not the result of willful conduct or gross neglect, the delay will not result in substantial prejudice to opposer, and the filing of its motion to reset its time to answer demonstrates that applicant has a meritorious defense. *Fred Hayman Beverly Hills Inc. v. Jacques Bernier Inc.*, 21 USPQ2d 1556 (TTAB 1991).

In view thereof, the Board's notice of default is hereby set aside, and applicant's motion to reset its time to answer is granted.

Dates are reset below.

Time to Answer	2/8/10
Deadline for Discovery Conference	3/10/10
Discovery Opens	3/10/10
Initial Disclosures Due	4/9/10
Expert Disclosures Due	8/7/10
Discovery Closes	9/6/10
Plaintiff's Pretrial Disclosures	10/21/10
Plaintiff's 30-day Trial Period Ends	12/5/10
Defendant's Pretrial Disclosures	12/20/10
Defendant's 30-day Trial Period Ends	2/3/11
Plaintiff's Rebuttal Disclosures	2/18/11
Plaintiff's 15-day Rebuttal Period Ends	3/20/11

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.

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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.
