

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

gcp

Mailed: January 11, 2011

Opposition No. 91194431

Tiffany (NJ) LLC

v.

Formosa Sunrise Corporation

By the Trademark Trial and Appeal Board:

On December 8, 2010, applicant was ordered to show cause why judgment should not be entered against it in accordance with Fed. R. Civ. P. 55(b).

On January 4, 2011, applicant filed a construed motion to set aside the default. The record shows that applicant's failure to file a timely answer in this opposition proceeding was neither willful nor unduly prejudicial, but is due the fact that applicant is a small company and requires additional time to obtain necessary documents to proceed with this case, especially since it no longer has legal counsel. Additionally, applicant notes that it is currently in negotiations with opposer. *See Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991).

The Board is persuaded that the foregoing reason constitutes good cause to set aside applicant's default.

Accordingly, applicant's construed motion to set aside its default is granted and the Board's December 8, 2010 default notice is hereby discharged. Applicant is allowed until **February 9, 2011** in which to file an answer or otherwise respond to the notice of opposition.

Trial dates are reset as follows:

Time to Answer	2/9/2011
Deadline for Discovery Conference	3/11/2011
Discovery Opens	3/11/2011
Initial Disclosures Due	4/10/2011
Expert Disclosures Due	8/8/2011
Discovery Closes	9/7/2011
Plaintiff's Pretrial Disclosures	10/22/2011
Plaintiff's 30-day Trial Period Ends	12/6/2011
Defendant's Pretrial Disclosures	12/21/2011
Defendant's 30-day Trial Period Ends	2/4/2012
Plaintiff's Rebuttal Disclosures	2/19/2012
Plaintiff's 15-day Rebuttal Period Ends	3/20/2012

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 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.

Pro Se Information

It is noted that applicant intends to represent itself in this proceeding. While Patent and Trademark Rule 11.14 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, applicant 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 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 applicant 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 applicant obtain a copy of the latest edition of Chapter 37 of the Code of Federal Regulations, which includes the Trademark Rules of Practice,

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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.¹

¹ The Trademark Trial and Appeal Board Manual of Procedure (TBMP) is also available on the World Wide Web at <http://www.uspto.gov>.