

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: August 1, 2014

Opposition No. 91197616

BCP Imports, LLC

v.

Howard Montag Group LLC

**George C. Pologeorgis,
Interlocutory Attorney:**

The time for Opposer to file a brief on the case has expired, and no brief on the case is of record.

Trademark Rule 2.128(a)(3) provides

When a party in the position of plaintiff fails to file a main brief, an order may be issued allowing plaintiff until a set time, not less than fifteen days, in which to show cause why the Board should not treat such failure as a concession of the case. If plaintiff fails to file a response to the order, or files a response indicating that he has lost interest in the case, judgment may be entered against plaintiff.

In view of the failure to file a brief, Opposer is allowed until **thirty (30)** **days** from the mailing date of this order to show cause why the Board should not treat the failure to file a brief as a concession of the case, failing which a

judgment dismissing the notice of opposition with prejudice will be entered.¹ *See* TBMP §§ 536 and 801.02(a).

As a final matter, the Board notes that the record demonstrates that Opposer has failed to introduce any evidence during its assigned testimony period. Accordingly, Opposer is allowed the **same thirty days provided above** in which to show cause why judgment should not be entered against Opposer for failure to prosecute this case. *Cf.* Trademark Rule 2.132.

Proceedings are otherwise suspended pending Opposer's response to this order.

¹ If Opposer files a brief on the case concurrently with its response to an order to show cause under Trademark Rule 2.128(a)(3), or wishes to be afforded an opportunity to file its brief, Opposer should set forth a motion to reopen its time to file a brief, which motion will be determined on the basis of whether Opposer has shown that its failure to timely file such brief was the result of excusable neglect. *See* TBMP § 536 (2014).