

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

vb

Mailed: July 28, 2011

Opposition No. 91198765

Synopsys, Inc.

v.

Brocade Communications  
Systems, Inc.

Jennifer Krisp, Interlocutory Attorney:

On July 19, 2011, the Board issued a notice of default because no answer had been filed. On July 21, 2011, applicant filed a response and motion to set aside notice of default.<sup>1</sup>

If a defendant who fails 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 (3d ed. 2011).

In this case, the Board finds that applicant's failure to file a timely answer was not the result of willful

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<sup>1</sup> Applicant's July 14, 2011 change of correspondence address is noted and entered.

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inattention, purposeful delay or bad faith, and that the delay that has been caused thereby has been relatively brief. See *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556, 1557 (TTAB 1991). In addition, any prejudice to opposer occasioned by the delay is minimal. Moreover, because the law favors deciding cases on their merits, the Board is reluctant to grant judgment on the basis of default, and tends to decide cases on their merits and to set aside default, where appropriate. See *Paolo's Associates Limited Partnership v. Paolo Bodo*, 21 USPQ2d 1899, 1902 (Comm'r 1990).

Accordingly, the notice of default is hereby set aside, proceedings are resumed, and applicant is allowed until August 27, 2011 in which to file an answer to the notice of opposition. Conferencing, disclosure, discovery and trial dates are reset as follows:

Time to Answer	8/27/2011
Deadline for REQUIRED Discovery	
Conference	9/26/2011
Discovery Opens	9/26/2011
Initial Disclosures Due	10/26/2011
Expert Disclosures Due	2/23/2012
Discovery Closes	3/24/2012
Plaintiff's Pretrial	
Disclosures due	5/8/2012
Plaintiff's 30-day Trial Period	
Ends	6/22/2012
Defendant's Pretrial	
Disclosures due	7/7/2012
Defendant's 30-day Trial Period	
Ends	8/21/2012
Plaintiff's Rebuttal	
Disclosures due	9/5/2012

Plaintiff's 15-day Rebuttal  
Period Ends

10/5/2012

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 the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

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