

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

dmd

Mailed: July 6, 2011

Opposition No. 91198918

Abita Brewing Company, LLC

v.

DARRELL D BIRD

Cheryl S. Goodman, Interlocutory Attorney:

No answer having been timely received, the Board issued notice of default to applicant on May 16, 2011, allowing him thirty days in which to show cause why judgment should not be entered against him. Now before the Board is applicant's June 1, 2011 motion to set aside the notice of default and to accept applicant's concurrently filed late answer and applicant's consented motion to extend (reopen) time to file its answer.

By its response, applicant states that on or about April 15, 2011, counsel for opposer agreed to extend the deadline by which applicant could file an answer to the notice of opposition; however, counsel believed that opposer would file the stipulation regarding the extension, and

other pressing matters and an oversight by the office for applicant's counsel led to the failure to file the parties' stipulated motion with the Board. Without evaluating the merits of this case, the Board further finds that applicant's late answer contains a meritorious defense to the complaint inasmuch as it contains a plausible response to opposer allegations. The Board is persuaded that the foregoing constitutes good cause to discharge the notice of default and to accept the answer. Fed. R. Civ. P. 55; *Fred Hayman Beverly Hills Inc. v. Ja`cques Bernier Inc.*, 21 USPQ2d 1556 (TTAB 1991).

Accordingly, the notice of default is set aside, the consented motion to extend is granted, and applicant's answer is noted. Dates are reset as follows:

Deadline for Discovery Conference	7/30/2011
Discovery Opens	7/30/2011
Initial Disclosures Due	8/29/2011
Expert Disclosures Due	12/27/2011
Discovery Closes	1/26/2012
Plaintiff's Pretrial Disclosures	3/11/2012
Plaintiff's 30-day Trial Period Ends	4/25/2012
Defendant's Pretrial Disclosures	5/10/2012
Defendant's 30-day Trial Period Ends	6/24/2012
Plaintiff's Rebuttal Disclosures	7/9/2012
Plaintiff's 15-day Rebuttal Period Ends	8/8/2012

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

Opposition No. 91198918

the 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.