

TTAB

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

85, 105, 221

gcp

Mailed: August 16, 2011

Opposition No. 91199905

Dallas Manufacturing Co.,
Inc.

v.

IMJ Marketing Inc.

By the Trademark Trial and Appeal Board:

The Board instituted this proceeding on May 19, 2011, making applicant's answer due by June 28, 2011. Applicant did not file an answer by such date nor did it file a timely motion to further extend its time to answer. In view thereof, the Board issued a notice of default to applicant on July 18, 2011 requiring applicant to show cause why judgment should not be entered against applicant.

On August 16, 2011, applicant filed its answer but did explain why its answer was not timely filed.

Whether default judgment should be entered against a party is determined in accordance with Fed. R. Civ. P. 55(c), which reads in pertinent part: "for good cause shown the court may set aside an entry of default." As a general rule, good cause to set aside a defendant's default will be found where the defendant's delay has not been willful or in bad faith, when prejudice to the plaintiff is lacking, and



08-24-2011

where defendant has a meritorious defense. See *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991).

In this case, the Board finds that opposer is not prejudiced by applicant's late filing and, by filing an answer which denies the fundamental allegations in the notice of opposition, applicant has asserted a meritorious defense to this action. However, applicant has offered no explanation as to why it failed to timely file its answer.

In view of the foregoing, applicant is allowed until **TWENTY DAYS** from the mailing date of this order to explain why its answer was filed late.

The Board's July 18, 2011 default notice is held in abeyance until applicant responds to this order.

Proceedings are otherwise suspended.

United States Patent and Trademark Office
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA. 22313-1451
If Undeliverable Return in Ten Days

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300

AN EQUAL OPPORTUNITY EMPLOYER

91199905

JEFFREY DWECK
THE LAW FIRM OF JEFFREY S DWECK PC
100 W 33RD ST STE 1017
NEW YORK, NY 10001-2914



NIXIE 100 DE 1 00 00/20/11

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

BC: 22313145151 *0059-02997-17-39

10001525145151

