

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

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Mailed: November 14, 2011

Opposition No. 91201043

MYBODY, L.L.C.

v.

Catherine Huang-Begovic &
Binais Begovic

**M. Catherine Faint,
Interlocutory Attorney:**

Applicant's answer and motions, filed September 20, 2011, to accept its late answer and to retain the discovery, conferencing and trial dates set out in the Board's institution order are noted.

Answer was due on September 17, 2011. See Trademark Rule 2.106(a). Applicant did not file an answer by such date nor did it file a timely motion to further extend its time to answer.

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

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

In this case, the Board finds that applicant's failure to timely file its answer was not the result of willful inattention or bad faith; that opposer is not prejudiced by applicant's late filing; and that by filing its proposed answer, applicant has shown that it has a meritorious defense. *See Delorme Publishing Company, Inc. v. Eartha's, Inc.* 60 USPQ2d 1222, 1223 (TTAB 2000).

Applicant's motion to retain the dates set out in the Board's institution order is denied, and dates are re-set as indicated below.

Deadline for Discovery Conference	12/4/11
Discovery Opens	12/4/11
Initial Disclosures Due	1/3/12
Expert Disclosures Due	5/2/12
Discovery Closes	6/1/12
Plaintiff's Pretrial Disclosures	7/16/12
Plaintiff's 30-day Trial Period Ends	8/30/12
Defendant's Pretrial Disclosures	9/14/12
Defendant's 30-day Trial Period Ends	10/29/12
Plaintiff's Rebuttal Disclosures	11/13/12
Plaintiff's 15-day Rebuttal Period Ends	12/13/12

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.

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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.
