

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

Mailed: January 27, 2014

Opposition No. 91206295

Lauer Enterprises, Inc.

v.

OHbaby Limited

Millicent Canady, Paralegal Specialist:

Applicant's answer was due on October 16, 2013. On November 3, 2013, the Board issued notice of default because no answer, or extension of time to answer, had been filed. On November 14, 2013, applicant filed its motion to set aside the notice of default, and filed its answer on December 3, 2013.

The standard for determining whether default judgment should be entered against the applicant for its failure to file a timely answer to the complaint is the Fed. R. Civ. P. 55(c) standard, that is, whether the applicant has shown good cause why default judgment should not be entered against it. *See Paolo's Associates Limited Partnership v. Paolo Bodo*, 21 USPQ2d 1899 (Comm'r 1990); and *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991). Moreover, because the law favors deciding cases on their merits, the Board is reluctant to grant

judgments of default and tends to resolve doubts in favor of applicant. *See Paolo's Associates Limited Partnership, supra.*

Applicant states that the deadline for filing the answer was missed due to data entry problems and further states that the parties are in settlement negotiations.

The Board finds that applicant's delay was not due to willful conduct or neglect. In summary, the Board finds good cause to set aside applicant's default.

Accordingly, the notice of default is hereby set aside. *See also Trademark Rule 2.127(a).* Applicant's answer is accepted and entered. *Discovery and trial dates, are reset as indicated in opposer's motion to suspend proceedings, filed December 26, 2013.*

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.

If, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.