

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

Mailed: July 21, 2014

Opposition No. 91214282

LiveAnew, Inc.

v.

LiveAnew, LLC

**Veronica P. White, Paralegal Specialist:**

On June 20, 2014, the Board issued to applicant a show cause order, pursuant to Fed. R. Civ. P. 55(a), for its failure to file a timely answer. On June 23, 2014, applicant filed a combined motion to set aside default judgment and request for extension of time for an unspecified period of time to accommodate the parties' settlement negotiations.<sup>1</sup>

No response thereto has been received from opposer. Accordingly, the motion to set aside default judgment is hereby granted as conceded.

Good cause for discharging a default under Fed. R. Civ.P. 55(c) is generally found if (1) the delay in filing is not the result of willful conduct or gross neglect (2) the delay will not result in substantial prejudice to the

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<sup>1</sup> It is noted that the proof of service upon opposer indicates service upon an address that includes suite number "1360," not "1350". In order to expedite this matter, opposer is referred to TTABVue, at <http://ttabvue.uspto.gov/ttabvue/v?pno=91214282&pty=OPP&eno=11> to view a copy of the filing. If the Board's records are incorrect with respect to opposer's address, counsel for opposer should file herein a correction.

opposing party, and (3) the defendant has a meritorious defense. *Fred Hayman Beverly Hills Inc. v. Jacques Bernier Inc.*, 21 USPQ2d 1556 (TTAB1991). In analyzing the above factors, the Board keeps in mind that the law strongly favors determination of cases on their merits. *Paolo's Associates Ltd. Partnership v. Bodo*, 21 USPQ2d 1899, 1902 (Comm'r Pats. 1990).

Under the circumstances of this case, applicant has demonstrated good cause sufficient to avoid default judgment for its failure to answer by May 12, 2014. The record does not indicate that applicant's failure to timely answer the notice of opposition was either willful or the result of gross neglect, and it is apparent from the record that the parties have been engaged in settlement discussions.

In view thereof, the Board's June 20, 2014 order to show cause is hereby set aside. Because the parties are negotiating for a possible settlement of this case, proceedings herein are suspended until **September 19, 2014**, subject to the right of either party to request resumption at any time. *See* Trademark Rule 2.117(c).

In the event that there is no word from either party concerning the progress of their negotiations, upon conclusion of the suspension period, proceedings shall resume September 20, 2014 without further notice or order from the Board, upon the schedule set out below.

Time to Answer	<b>10/20/2014</b>
Deadline for Discovery Conference	<b>11/19/2014</b>

Discovery Opens	<b>11/19/2014</b>
Initial Disclosures Due	<b>12/19/2014</b>
Expert Disclosures Due	<b>4/18/2015</b>
Discovery Closes	<b>5/18/2015</b>
Plaintiff's Pretrial Disclosures	<b>7/2/2015</b>
Plaintiff's 30-day Trial Period Ends	<b>8/16/2015</b>
Defendant's Pretrial Disclosures	<b>8/31/2015</b>
Defendant's 30-day Trial Period Ends	<b>10/15/2015</b>
Plaintiff's Rebuttal Disclosures	<b>10/30/2015</b>
Plaintiff's 15-day Rebuttal Period Ends	<b>11/29/2015</b>

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.