

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: October 14, 2015

Opposition No. 91218304

*Kosan Kozmetik Sanayi Ve Ticaret Anonim
Sirketi*

v.

Marcus Asam, Mirjam Asam, Ruth Axel

**George C. Pologeorgis,
Interlocutory Attorney:**

On August 21, 2015, the Board issued a notice of default against Opposer/Counterclaim Defendant (“Opposer”) for failure to file an answer to Applicants’ counterclaim, or move to extend its time to file said answer. On August 26, 2015, Opposer filed a response to the Board’s August 21, 2015, default notice, as well as its answer to the counterclaim.

In its response, Opposer’s counsel indicates that he was on vacation, service was not received by email as previously agreed to by the parties, and the filing was not brought to his attention until after the due date for the answer to the counterclaim.

Inasmuch as the record indicates that Opposer’s failure to timely answer the counterclaim was not willful or in bad faith or for the purpose of delay and because Opposer’s answer to the counterclaim sets forth a meritorious defense, the Board’s August 21, 2015, default notice hereby is set aside. *See Fred Hayman Beverly Hills,*

Inc. v. Jacques Bernier, Inc., 21 USPQ2d 1556 (TTAB 1991). Opposer's answer to the Applicants' counterclaim is noted and accepted.

Trial Schedule

Opposer's testimony period is resumed but proceedings nonetheless remain suspended for the sole purpose of allowing the orderly completion of Opposer's testimony deposition upon written questions noticed on July 28, 2015. *See* Trademark Rule 2.124(d)(2).

The Board assumes that Opposer served its testimonial deposition written questions on Applicant on the date it noticed its testimony deposition on written questions, i.e., July 28, 2015. In view thereof and because these proceedings were effectively suspended since July 31, 2015, Applicant is allowed until **November 3, 2015** to serve cross-questions to Opposer's written questions. Trademark Rule 2.124(d)(1). Opposer is then allowed until **ten (10) days** from the date indicated on the certificate of service of Applicant's cross-questions in which to serve redirect questions, if necessary and appropriate. *Id.* Finally, Applicant is allowed until **ten (10) days** from the date indicated on the certificate of service of Opposer's redirect questions, if served, in which to serve recross questions, if necessary and appropriate. *Id.*

Moreover, written objections to questions may be served on a party propounding questions; any party who objects shall serve a copy of the objections on every other adverse party. *Id.* In response to objections, substitute questions may be served on the objecting party within **ten (10) days** of the date of service of the objections;

substitute questions shall be served on every other adverse party. *Id.* For more information regarding the proper procedures for taking a testimonial deposition on written questions, the parties are directed to TBMP § 703.02 (2015).

Upon completion of the testimony deposition upon written questions, Opposer should notify the Board so that this case may be called up for appropriate action.

During the suspension period the Board should be notified of any address changes for the parties or their attorneys.