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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91218603
Party	Defendant Ark Sciences, Inc.
Correspondence Address	GRACE J FISHEL LAW OFFICES GRACE J FISHEL 2200 W PORT PLAZA DR, STE 202 SAINT LOUIS, MO 63146-3211 UNITED STATES fishel@theapplicant.com
Submission	Other Motions/Papers
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Date	04/06/2015
Attachments	ResponseToOpposer'sRequestForReconsideration.pdf(91517 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

ZEUTER INC.,	:	
	:	
Opposer,	:	Opposition No. 91218603
	:	Serial No. 86170911
v.	:	Mark: ZEUTERIN
	:	
ARK SCIENCES, INC.,	:	
	:	
Applicant.	:	

RESPONSE TO OPPOSER'S REQUEST FOR RECONSIDERATION

In Opposer's Request for Reconsideration, Opposer complains that he was not given notice of Applicant's MOTION FOR RELIEF FROM FINAL JUDGMENT and DECLARATION OF GRACE J. FISHEL copies of which were sent via First Class Mail, postage prepaid, to Mr. Nick Slater, Zeuter Inc., P.O. Box 387, Zeph'r Cove, Nevada 89448 on January 29, 2015, the day that the motion was electronically filed with the Board.

Mr. Slater also states that was traveling since January 12th, 2015 which was the date of the NOTICE OF ABANDONMENT and has not received any other mail addressed to Zeuter Inc. at his address of record from the Board. Thus both applicant's Motion and the Board's decision of March 4, 2015 appear to have been mislaid, misdirected or otherwise not brought to his attention. The matter appears to have first come to his attention on April 2, 2015 in response to Applicant's attempt to schedule a Discovery Conference in accordance with a trial schedule set in the Board's decision.

While Opposer states that he received an electronic copy of the DEFAULT JUDGMENT, Applicant's counsel did not receive an email copy as there was no arrangement with Applicant for service by email. Nor did Applicant's counsel or the Applicant receive a copy of the NOTICE OF OPPOSITION. When one looks at the prosecution history for the subject proceeding in the Board's records, one will find that entry number 4 entitled "opposer's correspondence" is a copy of the filing receipt for the notice of opposition. It appears that the Opposer sent the receipt to the attention to the Trademark Trial and Appeal Board and not to the Applicant or its correspondence address.

As stated in Applicant's MOTION FOR RELIEF FROM FINAL JUDGMENT, the motion was filed within three weeks after the judgment was entered which was discovered by Applicant's counsel by receipt of the NOTICE OF ABANDONMENT postcard. Upon learning that a NOTICE OF OPPOSITION had been filed and the entry of the DEFAULT JUDGMENT, Applicant promptly filed APPLICANT'S ANSWER TO THE NOTICE OF

OPPOSITION and raised a meritorious defense. Hence the failure to file APPLICANT'S ANSWER TO THE NOTICE OF OPPOSITION was not willful or gross neglect.

It is believed that Opposer is not prejudiced by reopening of the proceeding. In the REQUEST FOR CONSIDERATION, Opposer asks for three months to review the matter which indicates that he is not prejudiced. Nor will it result in any hardship to third parties.

Default judgment is not favored by the law and it is believed that Applicant has shown good cause for setting aside the default judgment. WHEREFORE, Applicant requests that Opposer's REQUEST FOR RECONSIDERATION be denied.

Respectfully submitted,  
ARK SCIENCES, INC.

Date: April 6, 2015

By: 

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Attorney for Applicant

#### CERTIFICATE OF SERVICE

I hereby certify that a true and complete copies of the foregoing RESPONSE TO OPPOSER'S REQUEST FOR RECONSIDERATION was served upon Opposer by mailing same via First Class Mail, postage prepaid, to Mr. Nick Slater, Zeuter, Inc., P.O. Box 387, Zephyr Cove, Nevada 89448, this 6th day of April, 2015.

