

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: April 1, 2015

Opposition No. 91219513

BFF Biz, LLC

v.

Dr. Shirley Ross

Ann Linnehan, Interlocutory Attorney

On January 22, 2015, Applicant was ordered to show cause why judgment should not be entered against her in accordance with Fed. R. Civ. P. 55(b) for Applicant's failure to timely answer the notice of opposition.

In response thereto, Applicant filed a "motion to reopen" her time to answer wherein she indicates that she believed that she was discussing settlement with Opposer. She states that the parties had discussed the differences and similarities between the involved goods/services and consumers.

In response, Opposer states that "Applicant has failed to show good cause to set aside the default."

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 and 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 the defendant has a meritorious defense. *See Fred Hyman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991). Moreover, the Board is reluctant to grant judgments by default, since the law favors deciding cases on their merits. *See Paolo's Associates Limited Partnership v. Paolo Bodo*, 21 USPQ2d 1899 (Comm'r 1990).

The Board finds that Applicant has shown good cause to set aside the notice of default. First, Applicant's failure to timely answer the notice of opposition was neither willful, nor the result of gross neglect. Second, the Board is not convinced that Opposer was or will be substantially prejudiced by the delay. As for Applicant setting forth a meritorious defense to the notice of opposition, while it is true that Applicant has not done so on the record currently before the Board, the Board will allow Applicant time to do so.

In view thereof, the order to show cause why default should not be entered is hereby discharged and the notice of default is set aside.

Applicant's motion is granted.

Accordingly, applicant is allowed until May 30, 2015 to file her answer.

The discovery and trial dates are reset as follows:

Answer Due	5/30/2015
Deadline for Discovery Conference	6/30/2015

Discovery Opens	6/30/2015
Initial Disclosures Due	7/30/2015
Expert Disclosures Due	11/27/2015
Discovery Closes	12/27/2015
Plaintiff's Pretrial Disclosures Due	2/10/2016
Plaintiff's 30-day Trial Period Ends	3/26/2016
Defendant's Pretrial Disclosures Due	4/10/2016
Defendant's 30-day Trial Period Ends	5/25/2016
Plaintiff's Rebuttal Disclosures Due	6/9/2016
Plaintiff's 15-day Rebuttal Period Ends	7/9/2016

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 of 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.