**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

MW

Mailed: July 21, 2016

Opposition No. 91226815

*Conopco, Inc.*

*v.*

*Advanced Polymer Inc.*

**By the Trademark Trial and Appeal Board:**

An answer was due in this proceeding on April 19, 2016. On April 21, 2016, Opposer filed a motion for default judgment. Applicant filed its late answer on June 2, 2016. Because Applicant was in "in default" once the due date for the answer had passed, the Board issued (on June 2, 2016) a notice of default allowing Applicant thirty (30) days to show whether good cause for setting aside entry of default exists. The Board also allowed Applicant thirty (30) days to submit an amended answer that complies with Trademark Rule 2.106(b)(1).

In response to the notice of default, Applicant states that good cause exists because Applicant did not have an attorney; Applicant was preparing for the company relocation to a different physical location; and Applicant was overwhelmed by customer demads during its peak season.[1]

[1] Applicant submitted six different filings between June 22, 2016 and June 28, 2016. The Board has considered Applicant's filing at 14 TTABVUE as its response to the Board's order. In the future, Applicant should limit its filings with the Board to one per motion/response.

The Board will set aside entry of default if a defendant who has failed to file a timely answer to the complaint responds to a notice of default by filing a satisfactory showing of good cause why default judgment should not be entered against it. *See* Fed. R. Civ. P. 55(c); TBMP §312.02 (2015). Good cause for discharging default 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 opposing party, and (3) the defendant has a meritorious defense. *Fred Hayman Beverly Hills Inc. v. Jacques Bernier Inc.*, 21 USPQ2d 1556 (TTAB 1991). When considering these 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 Pat. 1990); *see also Int'l Painters and Allied Union and Indus. Pension Fund v. H.W. Ellis Painting Co., Inc.*, 288 F. Supp.2d 22, 25 (D.D.C. 2003).

In view of the above and considering Applicant's (late) attempts to request an extension of time to file its answer, the Board finds that Applicant's failure to timely file its answer does not rise to the level of willful or bad faith conduct or gross neglect.

Additionally, Applicant has filed an amended answer to the notice of opposition in connection with its response. Inasmuch as Applicant's answer responds to the allegations in the notice of opposition and is not frivolous, Applicant has made a meritorious defense. *See Fred Hyman Beverly Hills Inc.*, 21 USPQ2d at 1557. Further, the minimal delay in the proceeding will not result in substantial prejudice to Opposer.

Accordingly, the notice of default is hereby set aside and Opposer's motion for default judgment is **denied**.

Proceedings herein are resumed. Disclosure, discovery and trial dates are reset as follows:

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|---|---|
| Deadline for Discovery Conference | **8/19/2016** |
| Discovery Opens | **8/19/2016** |
| Initial Disclosures Due | **9/18/2016** |
| Expert Disclosures Due | **1/16/2017** |
| Discovery Closes | **2/15/2017** |
| Plaintiff's Pretrial Disclosures | **4/1/2017** |
| Plaintiff's 30-day Trial Period Ends | **5/16/2017** |
| Defendant's Pretrial Disclosures | **5/31/2017** |
| Defendant's 30-day Trial Period Ends | **7/15/2017** |
| Plaintiff's Rebuttal Disclosures | **7/30/2017** |
| Plaintiff's 15-day Rebuttal Period Ends | **8/29/2017** |

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 Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.