

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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WINTER/vw

Mailed: October 11, 2016

Opposition No. 91228282

Equifax Inc.

v.

*International Business Machines
Corporation*

BY THE TRADEMARK TRIAL AND APPEAL BOARD:

Joint Motion to Set Aside Notice of Default

By way of background, on July 26, 2016, the Board issued a notice of default in view of Applicant's failure to timely file an answer in this proceeding. On August 24, 2016, Applicant filed a joint motion to set aside the notice of default; to permit post-publication amendment of the opposed application; to suspend this proceeding pending the Board's consideration of the parties' stipulation to amend; and for conditional dismissal of the opposition without prejudice.¹ In support of the joint motion to set aside the notice of default, the parties explain that Applicant's failure to timely file an answer was not due to willful conduct or to gross neglect; that there is no prejudice to Opposer if default is set aside; and that setting aside the default is

¹ The appearance of counsel on behalf of Applicant (filed August 24, 2016) is noted and made of record.

necessary to effectuate the intent of the parties in their Coexistence Agreement. In view of the parties' stipulation, the joint motion to set aside the notice of default is **granted**. Accordingly, the notice of default is hereby discharged.² Cf. *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991).

Joint Motion to Amend Opposed Application and to Withdraw Opposition

Applicant, with Opposer's written consent, moves to amend subject application Serial No. 86327828. The parties also jointly move that upon the approval and entry of the following amendment, the opposition should be dismissed without prejudice and without entry of judgment for or against either party.

By the proposed amendment, Applicant seeks to amend the recitation of services in International Class 35 to remove the following stricken language, as follows:³

- From:** ~~Business management consulting services and business consulting services; business development services; market research; data processing services;~~ arranging and conducting trade show exhibitions; all of the foregoing in the field of computers, computer software, computer services, information technology and electronic business transactions via a global computer network.
- To:** Arranging and conducting trade show exhibitions; all of the foregoing in the field of computers, computer software, computer services, information technology and electronic business transactions via a global computer network.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(a), and because Opposer consents thereto, it is approved and entered. See Trademark Rule 2.133(a).

² Accordingly, Applicant's separate motion to set aside the notice of default (also filed on August 24, 2016) is moot.

³ Lined-through wording is deleted, and the goods and services in opposed International Classes 16 and 41 remain unchanged.

The contingency in Opposer's withdrawal having now been met, the opposition is dismissed **without prejudice** in accordance with the agreement between the parties.⁴

⁴ In view of this order, the parties' joint motion to extend Applicant's time to answer the opposition is moot.