

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Winter

Mailed: July 24, 2007

Cancellation No. 92046995

Agile TV Corporation

v.

Promptu Corporation

CHERYL BUTLER, ATTORNEY, TRADEMARK TRIAL AND APPEAL BOARD:

This case now comes up for consideration of petitioner's motion, filed April 12, 2007, for default judgment against respondent for failure to file an answer by the due date of March 10, 2007.

A review of the record shows that the notice instituting this proceeding and a copy of the petition to cancel were forwarded to respondent, but were returned by the Postal Service as undeliverable. Respondent has no obligation to file an answer to the complaint until it receives the Board's notification setting the time for filing an answer. *See Nabisco Brands Inc. v. Keebler Co.*, 28 USPQ2d 1237, 1238 (TTAB 1993). Accordingly, petitioner's motion for default is premature and will not be considered.

The Board also notes that petitioner's motion for default judgment was not accompanied by proof of service on respondent as

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required under Trademark Rule 2.119, 37 C.F.R. §2.119, and TBMP §311 (2d ed. rev. 2004). Petitioner is reminded that any future filings must show proof of service, otherwise such filings will not be considered by the Board. See Trademark Rule 2.119(a), 37 C.F.R. §2.119(a).

Pending reasonable investigation of respondent's whereabouts and publication of this proceeding in the *Official Gazette*, this proceeding is **SUSPENDED**.¹

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¹ A better address for respondent may be: Promptu Corporation, 333 Ravenswood Avenue, Building 202, Menlo Park, CA 94025.