

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

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Mailed: August 23, 2010

Cancellation No. 92050258

LA Guns International LLC

v.

The Stephen Riley and Traci
Guns Partnership

Before Zervas, Cataldo, and Taylor,
Administrative Trademark Judges.

By the Board:

On June 16, 2010, the Board issued an order allowing petitioner time to show cause why the Board should not treat petitioner's failure to file a main brief as a concession of the case under Trademark Rule 2.128(a)(3). Petitioner filed a response thereto on July 15, 2010 wherein it indicated that it has not lost interest in this proceeding and requested time to file a main brief. On July 21, 2010, respondent objected to petitioner's request to allow petitioner to file a main brief "because there has been a total lack of prosecution...."

We accept petitioner's response as evidence that it has not lost interest in this matter. Accordingly, the order to show cause is hereby set aside.

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Petitioner did not seek to reopen its testimony period and did not submit any evidence in support of its claims during its assigned testimony period which has now expired.¹ Nor has petitioner pointed to any circumstances that would constitute excusable neglect for its failure to take testimony or adduce any evidence in this case.² Therefore, judgment is entered against petitioner and the petition to cancel is dismissed with prejudice.³

¹ Even if petitioner had requested a reopening of its testimony period, based on the record herein, excusable neglect would not have been found.

² The record in this case reflects that petitioner did not participate in the required discovery conference, did not take discovery, and did not serve its pre-trial disclosures.

³ In view thereof, petitioner's motion to reopen its time to file a main brief is moot.