

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

nmt/jk

Mailed: December 16, 2010

Cancellation No. 92052915

Neken S.A.R.L.

v.

Nankang Rubber Tire
Corporation, Ltd.

By the Board:

Registrant's answer was due on **September 29, 2010**. Inasmuch as registrant did not file either an answer, or a timely request to extend its time to answer, the Board issued a notice of default on November 4, 2010. On November 8, 2010, registrant filed its answer, and on November 24, 2010 filed a response to the notice of default.

In its response, registrant contends that it did not file a timely answer due to its counsel's teaching assignment in China, that it had the press of business on other matters, and that it sought petitioner's consent to an extension.¹

¹ Regarding registrant's inability to secure petitioner's consent to an extension, this did not in any way preclude registrant from

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: "(T)he court may set aside an entry of default for good cause." 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 defendant has a meritorious defense. See *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991).

In this case, the Board finds that petitioner is not prejudiced by registrant's approximate two-month delay in filing an answer, and the record does not indicate that said delay was willful or in bad faith.

In view of the foregoing, registrant's default is hereby set aside, and its answer to the petition to cancel is accepted.

Conferencing,² discovery, and trial dates are reset as follows:

Deadline for Discovery Conference	1/12/2011
Discovery Opens	1/12/2011
Initial Disclosures Due	2/11/2011

meeting its obligation by filing an unconsented motion for an extension.

² In the event that either or both parties request the Board's participation in their required discovery conference, the assigned Interlocutory Attorney may be contacted by telephone at 571-272-9183 in order to facilitate the scheduling of said conference.

Expert Disclosures Due	6/11/2011
Discovery Closes	7/11/2011
Plaintiff's Pretrial Disclosures	8/25/2011
Plaintiff's 30-day Trial Period	10/9/2011
Ends	
Defendant's Pretrial Disclosures	10/24/2011
Defendant's 30-day Trial Period	12/8/2011
Ends	
Plaintiff's Rebuttal Disclosures	12/23/2011
Plaintiff's 15-day Rebuttal Period	1/22/2012
Ends	

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.