

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

coggins

Mailed: March 22, 2012

Cancellation No. 92054462

Round Hill Cellars

v.

Lolonis Winery, and
Lolonis Vineyards, Inc.

By the Board:

On February 14, 2012, the Board considered respondent's earlier motion for relief from final judgment under Fed. R. Civ. P. 55(c) and 60(b), but noted that, inasmuch as respondent had failed to include an answer with the motion, the Board was unable to fully determine the merits thereof. The Board allowed respondent time in which to file an answer to the petition for cancellation, and held that if respondent is able to show by its answer that it has a meritorious defense to the petition, then the Board may grant the motion for relief from final judgment.

Now before the Board is respondent's answer, filed March 7, 2012, within the time allowed therefor.¹

¹ It is not known why respondent filed two copies of its answer on the same day: one signed, the other unsigned. Respondent should file only a single copy of each paper. See TBMP § 106.03 (3d ed. 2011); and *DeLorme Publishing Co. v. Eartha's Inc.*, 60 USPQ2d 1222, 1222 n.1 (TTAB 2000).

Motion for Relief from Final Judgment

In the February 14, 2012 order, the Board determined that there did not appear to be any measurable prejudice to petitioner should the Board reopen this cancellation proceeding, and that it did not appear that respondent's default was willful. See Order pp. 6-7; see also *Djeredjian v. Kashi Co.*, 21 USPQ2d 1613, 1615 (TTAB 1991), citing *United Coin Meter Co. Inc. v. Seaboard Coastline Railroad*, 705 F.2d 839 (6th Cir. 1983).

Upon review of the answer, and without evaluating the merits of the underlying case, the Board finds that respondent has a meritorious defense to the petition for cancellation inasmuch as the answer presents a plausible response to petitioner's allegations and denies the pleaded ground of abandonment. In view thereof, respondent's motion for relief from final judgment under Fed. R. Civ. P. 55(c) and 60(b) is granted. Accordingly, the subject registration will be restored to its pre-judgment status, and this cancellation proceeding will now move forward on the schedule below.

Civil Action

The Board has reviewed the civil action information filed March 7, 2012, by petitioner, and presumes from the January 5, 2012 order issued therein that the civil action has been concluded. In view thereof, and because the civil

action does not appear to have a bearing on the sole pleaded ground of abandonment in the Board case, proceedings in the Board case are resumed on the following schedule.

Schedule

Deadline for Discovery Conference	4/23/2012
Discovery Opens	4/23/2012
Initial Disclosures Due	5/23/2012
Expert Disclosures Due	9/20/2012
Discovery Closes	10/20/2012
Plaintiff's Pretrial Disclosures	12/4/2012
Plaintiff's 30-day Trial Period Ends	1/18/2013
Defendant's Pretrial Disclosures	2/2/2013
Defendant's 30-day Trial Period Ends	3/19/2013
Plaintiff's Rebuttal Disclosures	4/3/2013
Plaintiff's 15-day Rebuttal Period Ends	5/3/2013

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.