

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

MBA/tlc

Mailed: May 15, 2012

Cancellation No. 92054855

Hybrid Promotions, LLC

v.

Fashion Exchange, LLC

**Michael B. Adlin, Interlocutory Attorney:**

On February 8, 2012, the Board issued a notice of default and allowed respondent thirty days to show cause why judgment by default should not be entered against it for its failure to timely file an answer. On February 8, 2012, respondent filed its [proposed] answer and on March 1, 2012 respondent filed its response to the notice of default. In its response, respondent claims that its failure to timely answer was unintentional, and the result of not receiving service of the petition for cancellation.

Under Fed. R. Civ. P. 55(c), default may be set aside "for good cause shown." As a general rule, good cause to set aside an applicant's default will be found where the applicant's delay has not been willful or in bad faith, where prejudice to the opposer is lacking, and where the applicant has a meritorious defense. *See Fred Hyman Beverly*

*Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991). Moreover, the Board is reluctant to grant judgments by default, since the law favors deciding cases on their merits. See *Paolo's Associates Limited Partnership v. Paolo Bodo*, 21 USPQ2d 1899 (Comm'r 1990).

Insofar as respondent's failure to timely answer the petition for cancellation was not willful or in bad faith, petitioner will not suffer prejudice given that this proceeding is in its earliest stages and respondent's proposed answer establishes that respondent has a meritorious defense, the Board's notice of default is hereby set aside. Respondent's proposed answer is accepted and is now respondent's operative pleading herein. Disclosure, discovery, trial and other dates are reset as follows:

Deadline for Discovery Conference	6/14/12
Discovery Opens	6/14/12
Initial Disclosures Due	7/14/12
Expert Disclosures Due	11/11/12
Discovery Closes	12/11/12
Plaintiff's Pretrial Disclosures	1/25/13
Plaintiff's 30-day Trial Period Ends	3/11/13
Defendant's Pretrial Disclosures	3/26/13
Defendant's 30-day Trial Period Ends	5/10/13
Plaintiff's Rebuttal Disclosures	5/25/13
Plaintiff's 15-day Rebuttal Period Ends	6/24/13

**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

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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.

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