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

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Mailed: May 17, 2012

Cancellation No. 92054963

IDology, Inc.

v.

Andrew P. Palmer

Elizabeth A. Dunn, Attorney (571-272-4267):

On February 14, 2012, the Board entered a notice of default against respondent for failure to file an answer or a motion for further extend time to file answer.

On March 13, 2012, respondent filed a combined response and motion to extend his time to answer.[1] Respondent explains that he never got the petition to cancel, the Board' order, or notice of default because he moved and mail was not forwarded.

If a defendant who has failed to file a timely answer to the complaint responds to a notice of default by filing a satisfactory showing of good cause why default judgment

[1] Inasmuch as no judgment has been entered, there is no reason to seek relief.

should not be entered against it, the Board will set aside the notice of default. See Fed. R. Civ. P. 55(c); TBMP 312.02 (3rd ed. 2011). In this case, the Board finds that respondent's failure to timely file its answer was not the result of willful inattention or bad faith; and that petitioner is not prejudiced by the delay. In view thereof, the Board's notice of default is hereby set aside.

Inasmuch as petitioner filed no objection thereto, respondent's motion to extend his time to file an answer is granted as conceded, and the due date is shown at the end of this order. Trademark Rule 2.127.

As Mr. Palmer was previously informed by the Board's December 21, 2011 institution and trial order, this proceeding will be conducted in accordance with the Trademark Rules of Practice, which are available from the TTAB page on the USPTO website, and this requires Mr. Palmer to file an answer with the Board which complies with Trademark Rule 2.114.[2] The petition to cancel herein

[2] A cancellation before the Board is similar to a civil action in a federal district court. There are pleadings, a wide range of possible motions; discovery (a party's use of discovery depositions, interrogatories, requests for production of documents and things, and requests for admission to ascertain the facts underlying its adversary's case), a trial, and briefs, followed by a decision on the case. The Board does not preside at the taking of testimony. Rather, all testimony is taken out of the presence of the Board during the assigned testimony, or trial, periods, and the written transcripts thereof, together with any exhibits thereto, are then filed with the Board. No

consists of seventeen paragraphs setting forth the basis of IDology, Inc.'s claim of damage. It is incumbent on Mr. Palmer as respondent to answer the petition to cancel by admitting or denying the allegations contained in each paragraph. If he is without sufficient knowledge or information on which to form a belief as to the truth of any one of the allegations, Mr. Palmer should so state and this will have the effect of a denial.

While Patent and Trademark Rule 10.14 permits any person to represent itself, it is generally advisable for a person who is not acquainted with the technicalities of the procedural and substantive law involved in inter partes proceedings before the Board to secure the services of an attorney who is familiar with such matters. The Patent and Trademark Office cannot aid in the selection of an attorney. Strict compliance with the Trademark Rules of Practice and where applicable, the Federal Rules of Civil Procedure, is expected of all parties before the Board, whether or not they are represented by counsel.[3]

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paper, document, or exhibit will be considered as evidence in the case unless it has been introduced in evidence in accord with the applicable rules.

[3] If a party lacks access to a law library or legal research service, in addition to the Trademark Rules and the TBMP, the USPTO website offers research options in the form of a searchable database of Board final decisions. On the Board's webpage, clicking "TTAB Final Decisions" brings the user to a search page

Trial dates, including respondent's time to file his answer, are reset as follows:

Time to Answer	**6/15/2012**
Deadline for Discovery Conference	**7/15/2012**
Discovery Opens	**7/15/2012**
Initial Disclosures Due	**8/14/2012**
Expert Disclosures Due	**12/12/2012**
Discovery Closes	**1/11/2013**
Plaintiff's Pretrial Disclosures	**2/25/2013**
Plaintiff's 30-day Trial Period Ends	**4/11/2013**
Defendant's Pretrial Disclosures	**4/26/2013**
Defendant's 30-day Trial Period Ends	**6/10/2013**
Plaintiff's Rebuttal Disclosures	**6/25/2013**
Plaintiff's 15-day Rebuttal Period Ends	**7/25/2013**

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.l25.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.l29.

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where date parameters and a key word (such as abandonment) may be entered. The search will produce a listing of the Board final decisions which use that term within the specified period. By clicking on the proceeding number in the list, the user may read the full decision.