

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

VW

Mailed: February 21, 2013

Cancellation No. 92056189

Todd Jones dba Real Advice

v.

Real Living Real Estate, LLC

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

On November 13, 2012, the Board issued notice of default to respondent because no answer had been filed.¹

On January 4, 2013, respondent filed a change of owner's correspondence address for its involved registration. However, respondent filed the document with Trademarks, employing the Trademark Electronic Application System (TEAS), instead of employing the ESTTA system to file the address change with the Board.

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 On February 13, 2013, petitioner filed a motion for default judgment. In view of the Board's decision to treat the change of address as a response to notice of default, no consideration will be given to the motion.

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. In this case, while the Board's orders have not been returned as undeliverable, the change of address and the fact that it was filed in the registration file and not the Board proceeding file indicates that respondent may not be aware of the pendency of this proceeding.² The Board construes the change of address as good cause for the failure to file the answer. In view thereof, the Board's notice of default is hereby set aside.

The Board's records have been changed to reflect the new address. As set forth below, respondent is allowed additional time in which to file an answer to the petition to cancel, failing which the Board again will issue notice of default.

Proceedings herein are resumed, and dates are reset as follows:

Time to Answer

3/22/2013

² Registrant's filing was not accompanied by proof of service on petitioner as required by Trademark Rule 2.119(a). Each party is obligated to send a service copy of any paper filed with the Board to the adverse party, and to include proof of service when the paper is filed with the Board. To expedite matters, a copy of the filing is included with the mailed version of this order. However, registrant is advised that 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. *McDermott v. San Francisco Women's Motorcycle Contingent*, 81 USPQ2d 1212, 1212 (TTAB 2006). Any subsequent paper filed without proof of service will be given no consideration.

Deadline for Discovery Conference	4/21/2013
Discovery Opens	4/21/2013
Initial Disclosures Due	5/21/2013
Expert Disclosures Due	9/18/2013
Discovery Closes	10/18/2013
Plaintiff's Pretrial Disclosures	12/2/2013
Plaintiff's 30-day Trial Period Ends	1/16/2014
Defendant's Pretrial Disclosures	1/31/2014
Defendant's 30-day Trial Period Ends	3/17/2014
Plaintiff's Rebuttal Disclosures	4/1/2014
Plaintiff's 15-day Rebuttal Period Ends	5/1/2014

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 Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

If, during the suspension period, either of the parties or their attorneys should have a change of address, the Board should be so informed.

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