

**UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513**

EAD

Mailed: July 31, 2003

Concurrent Use No. 94001236

Po-Boyz, Ltd.

v.

Antone's Import Company

Elizabeth A. Dunn, Attorney:

On December 18, 2001, the Board instituted this concurrent use proceeding and ordered the parties to show cause within 30 days why, pursuant to the December 20, 1996 final order of the U.S. Bankruptcy Court for the Southern District of Texas, Houston Division, Po-Boyz, Ltd.'s concurrent use applications should not issue, and why Antone's Import Company's registrations should not be geographically restricted.

Registrant filed consented requests to extend time to respond to the Board's show cause order on January 16, 2002, February 15, 2002, April 17, 2002, May 17, 2002, June 28, 2002, August 15, 2002, and September 16, 2002. The Board previously granted the consented motions to extend filed January 16, 2002, February 15, 2002, and April 17, 2002. By this order, registrant's consented motions to extend time to

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respond filed May 17, 2002, June 28, 2002, August 15, 2002, and September 16, 2002 also are granted.

On October 15, 2002, registrant filed a motion to suspend proceedings to allow registrant to serve discovery on the concurrent use applicant which would enable registrant "to fully respond to the [Board's show cause] order." The gist of registrant's motion is that the bankruptcy court order upon which the concurrent use applications are based does not find that concurrent use applicant owns the marks; that the bankruptcy court order must be read in context of other proceedings between the parties and their predecessors; that the concurrent use applications did not include documents which support a finding that the bankruptcy court determined the ownership of the marks; that discovery is necessary to support the concurrent use applicant's "interpretation" that the bankruptcy court found that concurrent use applicant owned the marks.

On October 31, 2002, concurrent use applicant filed a consented motion to extend to December 30, 2002 its time to respond to registrant's motion to suspend and to serve discovery. By this order, concurrent use applicant's consented motion is granted. The Board regrets the delay in acting upon this matter.

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However, the requested extension date of December 30, 2002 has passed, and the Board's proceeding file contains neither concurrent use applicant's further request for extension nor concurrent use applicant's response to registrant's motion to suspend and to serve discovery.

Under these circumstances, concurrent use applicant is ordered to show cause within 30 days from the mailing date of this order why default judgment should not be entered against concurrent use applicant based on concurrent use applicant's apparent loss of interest in this case.

Proceedings herein are otherwise suspended.