

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

Mailed: July 28, 2003

Opposition No. 123,324

Luster Products, Inc.

v.

Revlon Consumer Products  
Corporation

Karen Kuhlke, Attorney:

On April 17, 2003, the Board issued an order requiring opposer to show cause why the Board should not treat its failure to file a brief as a concession of the case. On May 19, 2003, by certificate of mailing, opposer filed its response to the show cause order and a motion to reopen proceedings.<sup>1</sup> No response from applicant has been received.

By its response, opposer states that it had never received notification of the proceeding from the Board. Further, opposer states that the parties have been "engaged in settlement negotiations." Finally, opposer requests that "all dates in these proceedings be reset which would allow the parties to attempt to resume their settlement negotiations for the resolution of this matter."

---

<sup>1</sup> The Board notes receipt of opposer's signed copy of that response.

**Opposition No. 123,324**

The principal purpose of Trademark Rule 2.128(a)(3) is to save the Board the burden of determining a case on the merits where the parties have settled, but have neglected to notify the Board thereof, or where the plaintiff has lost interest in the case. It is not the policy of the Board to enter judgment against a plaintiff for failure to file a main brief if the plaintiff still wishes to obtain an adjudication of the case on the merits.

The Board finds that opposer has demonstrated that it has not lost interest in pursuing this case. Under the circumstances, the order to show cause is considered discharged, and judgment will not be entered against opposer for failure to file a main brief.

Further, opposer's motion to reopen all dates, including time for discovery, is granted as uncontested. Trademark Rule 2.127(a). In view thereof, dates are reset as indicated below.

<b>DISCOVERY PERIOD TO CLOSE:</b>	<b>November 1, 2003</b>
30-day testimony period for party in position of plaintiff to close:	<b>January 30, 2004</b>
30-day testimony period for party in position of defendant to close:	<b>March 30, 2004</b>
15-day rebuttal testimony period to close:	<b>May 14, 2004</b>

\* \* \*