

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

Mailed: April 1, 2003

Opposition No. 91/153,015

SCHRADER-BRIDGEPORT
INTERNATIONAL, INC.

v.

GREENBALL CORPORATION

Andrew P. Baxley, Interlocutory Attorney:

On January 31, 2003, the Board issued a notice of default under Fed. R. Civ. P. 55(a).

On March 6, 2003,¹ applicant responded that that applicant's attorneys were in the process of reorganizing; and that the attorney assigned to attend to trademark matters inadvertently allowed applicant's time to answer to lapse. Applicant also filed a proposed answer.

Whether default judgment should be entered against a party is determined in accordance with Fed. R. Civ. P. 55(c), which reads in pertinent part: "for good cause shown the court may set aside an entry of default." As a general

¹ It is noted that applicant's response was filed three days late. However, applicant's lateness appears to be caused by its failure to follow certificate of mailing procedures as set forth in Patent and Trademark Rule 1.8. Applicant is urged to follow certificate of mailing procedures henceforth.

Opposition No. 153,015

rule, good cause to set aside a defendant's default will be found where the defendant's delay has not been willful or in bad faith, when prejudice to the plaintiff is lacking, and where defendant has a meritorious defense. See *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier Inc.*, 21 USPQ2d 1556 (TTAB 1991).

On this record, the Board finds that applicant's failure to timely answer was inadvertent and due to its attorneys' reorganization. Moreover, there is no evidence of any prejudice to opposer, and applicant has set forth a meritorious defense, by way of its denials of the essential allegations of the notice of opposition between the parties.

In view thereof, the notice of default is set aside, and applicant's answer is accepted and made of record.

Trial dates, including the close of discovery, are reset as follows:

DISCOVERY PERIOD TO CLOSE:	6/27/03
Plaintiff's 30-day testimony period to close:	9/25/03
Defendant's 30-day testimony period to close:	11/24/03
15-day rebuttal testimony period to close:	1/8/04