

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

Mailed: September 4, 2003

Opposition No. 91155782

Johnson Publishing Company

v.

INDUSTRIA DE DISEÑO TEXTIL,
S.A.

Cheryl Goodman, Interlocutory Attorney:

This case now comes up on applicant's motion to reopen its time to answer and to reset dates, filed June 10, 2003.

In support of its motion, applicant states that it never received a copy of the institution order and notice of opposition; that it was not until June 6, 2003 that it became aware of the opposition proceeding; that it hired a document retrieval company to provide it with a copy of the notice of opposition and institution order; and that thereafter, it promptly filed its motion to reopen and late-answer. Applicant further asserts that the delay was not willful; that opposer will not be prejudiced; and that it has a meritorious defense.

The standard for determining whether default judgment should be entered is good cause. See Fed. R. Civ. P. 55(c).

In the present case, the circumstances set forth by applicant set forth good cause to set aside default.

Accordingly, default is set aside, and applicant's late filed answer is accepted and entered. Additionally, applicant's motion to extend discovery and trial dates is granted.

Applicant has correctly pointed out that although this is a consolidated opposition (the notice of opposition references four involved applications), the institution order referenced only one of the involved applications, Application Serial No. 76/101,025.¹ This was a due to a clerical error.

In view thereof, the following applications are added to this proceeding:

Application Serial No. 76/101,026
Application Serial No. 76/101,030
Application Serial No. 76/101,031

The Board also notes that, as pointed out by opposer in the notice of opposition, application Serial No. 76/101,031, has registered as Reg. No. 2,648,103. Inasmuch as an extension of time to oppose was pending at the time of registration, this registration has inadvertently issued.

Accordingly, application Serial no. 76/101,031 will be forwarded to the Office of the Commissioner for Trademarks for appropriate action.²

¹ Opposer's deposit account will be debited for this consolidated opposition proceeding.

² The notice of institution of the opposition should have informed the parties of the inadvertent issuance. The error is regretted. The Office of the Commissioner for Trademarks may

The parties are advised that the opposition proceeding will go forward in the usual manner with regard to all of the involved applications, as well as in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations.

Discovery and trial dates are reset as follows:

DISCOVERY PERIOD TO CLOSE: **March 5, 2003**

30-day testimony period for party in position of plaintiff to close: **June 3, 2003**

30-day testimony period for party in position of defendant to close: **August 2, 2003**

15-day rebuttal testimony period for party in position of plaintiff to close: **September 16, 2003**

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.

issue an order cancelling the inadvertently issued registration and restoring the application to pendency, subject to the present opposition proceeding.