

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

Mailed: April 13, 2004

Opposition No. 91157378

Desa IP, LLC

v.

CARRIER CORPORATION

**David Mermelstein, Attorney:**

On February 2, 2004, the Board issued notice of default because applicant had not filed an answer to the notice of opposition. On February 14, 2004, applicant filed a response, indicating that it had not received the notice of opposition and the Board's institution order.<sup>1</sup> The record indicates that the Board mailed the notice of opposition and institution order to applicant at its counsel's current address of record on October 16, 2003, although applicant states that the papers were not received.

Applicant's default is discharged. A copy of the notice of opposition and the original institution order are

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<sup>1</sup> Applicant's filing is not accompanied by a certificate attesting to service of the paper upon counsel for opposer, as required by Trademark Rule 2.119(a). We will excuse applicant's lapse; since applicant did not receive the notice of opposition and institution order, it may not have known the identity and address of opposer's counsel. Nonetheless, we note that papers in TTAB files are now viewable on the Web, using TTABVue at <http://ttabvue.uspto.gov>. A copy of applicant's filing is included with this order for opposer's perusal.

mailed to applicant herewith. Applicant is allowed until THIRTY DAYS from the mailing date of this order in which to file an answer.

Discovery is open. Trial dates, including the close of discovery, are reset as follows:

DISCOVERY PERIOD TO CLOSE: **August 5, 2004**

Thirty-day testimony period for party in position of plaintiff to close: **November 3, 2004**

Thirty-day testimony period for party in position of defendant to close: **January 2, 2005**

Fifteen-day rebuttal testimony period to close: **February 16, 2005**

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.

***By the Trademark Trial  
and Appeal Board***