

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: February 7, 2005

Opposition No. 91160134

CIRRUS SYSTEM, LLC

v.

Cirrus Capital S.A.

David Mermelstein, Attorney:

On December 2, 2004, the Board issued a notice of default to applicant because no answer had been filed. Applicant was allowed thirty days in which to show cause why judgment should not be entered against it. The record shows no response to the notice of default.

On January 7, 2005, opposer filed a paper styled a "motion to bar applicant from objecting to opposer's discovery requests." Because the Board construed opposer's paper as a motion to compel discovery, an order was issued on January 24, 2005, suspending proceedings pending determination of the motion. See Trademark Rule 2.120(e)(2).

Upon closer examination, however, it appears that opposer's motion to compel is moot, and is accordingly denied. Pursuant to the Board's December 2, 2004, order, applicant was allowed thirty days, or until January 3,

Opposition No. 91160134

2005,¹ in which to show cause why judgment should not be entered against it.² To date, applicant has neither filed an answer nor a response to the show cause order.³

Accordingly, judgment by default is hereby entered against applicant, the opposition is SUSTAINED, and registration to applicant is refused. See Fed. R. Civ. P. 55, and Trademark Rule 2.106(a).

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

¹ Although thirty days from December 2, 2004, was actually January 1, 2005, that day was a Saturday, making applicant's response due on the next succeeding business day, which was Monday, January 3, 2005. Trademark Rule 2.196.

² Applicant was also required to file an answer with its response to the Board's order.

³ Although the Board suspended proceedings pending a decision on opposer's January 7 motion to compel, applicant's motion was filed after the date on which applicant was required to respond to the Board's show cause order. Therefore, the time for responding to the Board's order was not affected by the suspension.