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

Baxley

Mailed: February 21, 2007

Opposition No. **91172725**

Acuity Brands, Inc.

v.

Technical Consumer Products, Inc.

Andrew P. Baxley, Interlocutory Attorney:

In view of the answer that applicant filed on September 25, 2006, the notice of default that the Board issued on February 15, 2007 is vacated.[1]

Discovery and testimony periods remain as set in the Board notice instituting this proceeding.

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[1] The Board notes, however, that, on December 17, 2006, applicant filed a consented motion to extend its time to answer, which the Board granted in a December 17, 2006 electronic form order. By such order, applicant's time to answer was extended to January 16, 2007. However, a review of the proceeding file indicates that applicant had already filed its answer nearly three months prior to the filing of that motion.

By its December 17, 2006 motion, applicant appears to have been seeking an extension of time to serve responses to outstanding discovery requests. As such, applicant should not have used the Board's electronic form motion for an extension of time to answer. If the parties agree among themselves to extend time in which to serve discovery responses, it is generally unnecessary to file a motion with the Board to extend time to serve discovery responses. See TBMP Section 408.01 (2d ed. rev. 2004). However, if the parties wish to file a consented motion to extend time to serve responses to discovery requests, it should prepare a motion that asks for such an extension and file that motion through the Board's Electronic System for Trademark Trials and Appeals (ESTTA).