

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

MBA

Mailed: April 22, 2009

Opposition No. 91173166

Playtex Products, Inc.

v.

Sharper Image Corporation

**Michael B. Adlin, Interlocutory Attorney:**

The Board's order of April 16, 2009 is hereby vacated. Pursuant to the Board's order of June 19, 2008, applicant's answer to the notice of opposition was due January 17, 2009. Inasmuch as it appears that no answer has been filed, nor has applicant filed a motion to further extend its time to answer, notice of default is hereby entered against applicant under Fed. R. Civ. P. 55(a).

Applicant is allowed until **THIRTY DAYS** from the mailing date of this order to show cause why judgment by default should not be entered against applicant in accordance with Fed. R. Civ. P. 55(b).

The Board further notes that this case is now **two and one-half years old**, and although the parties have been doing nothing but discussing settlement, they have been unable to settle. Accordingly, in the event applicant establishes

good cause for setting aside default, from that point forward, if either party desires any additional extensions or suspensions, it will be required to contact the interlocutory attorney responsible for this proceeding by telephone, with its adversary on the line. During any such teleconference, one or both parties will be required to establish good cause for any additional extension or suspension in detail, with a focus on what has occurred in this proceeding since the prior extension or suspension was granted.

News from the TTAB

The USPTO published a notice of final rulemaking in the Federal Register on August 1, 2007, at 72 F.R. 42242. By this notice, various rules governing Trademark Trial and Appeal Board inter partes proceedings are amended. Certain amendments have an effective date of August 31, 2007, while most have an effective date of November 1, 2007. For further information, the parties are referred to a reprint of the final rule and a chart summarizing the affected rules, their changes, and effective dates, both viewable on the USPTO website via these web addresses:

<http://www.uspto.gov/web/offices/com/sol/notices/72fr42242.pdf>

[http://www.uspto.gov/web/offices/com/sol/notices/72fr42242\\_FinalRuleChart.pdf](http://www.uspto.gov/web/offices/com/sol/notices/72fr42242_FinalRuleChart.pdf)

By one rule change effective August 31, 2007, the Board's standard protective order is made applicable to all TTAB inter partes cases, whether already pending or commenced on or after that date. However, as explained in the final rule and chart, this change will not affect any case in which any protective order has already been approved or imposed by the Board. Further, as explained in the final rule, parties are free to agree to a substitute protective order or to supplement or amend the standard order even after August 31, 2007, subject to Board approval. The standard protective order can be viewed using the following web address:

<http://www.uspto.gov/web/offices/dcom/ttab/tbmp/stdnagmnt.htm>

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