

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

MBA/cv

Mailed: June 1, 2012

Opposition No. 91200405

Casella Wines Pty Ltd.

v.

Nature & Innovation

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

On April 27, 2012, the Board issued a notice of default for applicant's failure to timely answer or to request an extension of time in which to do so. On May 15, 2012, applicant filed its response, without explaining why it failed to answer or submitting a [proposed] answer to the notice of opposition.

Under Fed. R. Civ. P. 55(c), default may be set aside "for good cause shown." As a general rule, good cause to set aside an applicant's default will be found where the applicant's delay has not been willful or in bad faith, where prejudice to the opposer is lacking, and where the applicant has a meritorious defense. See *Fred Hyman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556 (TTAB 1991). Moreover, the Board is reluctant to grant judgments by default, since the law favors deciding cases on their

Opposition No. 91200405

merits. *See Paolo's Associates Limited Partnership v. Paolo Bodo*, 21 USPQ2d 1899 (Comm'r 1990).

Here, applicant has not established that its failure to timely answer was not willful or in bad faith, i.e. that it was inadvertent, nor has applicant established that it has a meritorious defense (which can be established merely by filing a [proposed] answer which is not frivolous). Accordingly, the Board declines to set aside default at this time, and instead, applicant is allowed until **THIRTY DAYS** from the mailing date of this order to substantively respond to the notice of default and submit a proposed answer to the notice of opposition. In the event applicant fails to respond within the time provided, judgment by default may be entered against applicant. Proceedings herein are otherwise suspended.

\*\*\*