

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

MBA/cv

Mailed: August 1, 2012

Opposition No. 91200405

Casella Wines Pty Ltd.

v.

Nature & Innovation

Michael B. Adlin, Interlocutory Attorney:

The Board issued a notice of default on June 1, 2012. In its June 26, 2012 response to the notice of default, applicant claims that the parties were engaged in settlement negotiations and, at least implicitly, that its failure to timely answer the notice of opposition was inadvertent.

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

Here, insofar as applicant's failure to timely answer the notice of opposition was not willful or in bad faith, opposer will not suffer prejudice given that this proceeding is in its earliest stages and the parties are apparently discussing settlement, and applicant's proposed answer establishes that applicant has a meritorious defense, the Board's notice of default is hereby set aside. Applicant's proposed answer is accepted and is now applicant's operative pleading herein.

Conferencing, disclosure, discovery, trial and other dates are hereby reset as follows:

Deadline for Discovery Conference	8/26/2012
Discovery Opens	8/26/2012
Initial Disclosures Due	9/25/2012
Expert Disclosures Due	1/23/2013
Discovery Closes	2/22/2013
Plaintiff's Pretrial Disclosures	4/8/2013
Plaintiff's 30-day Trial Period Ends	5/23/2013
Defendant's Pretrial Disclosures	6/7/2013
Defendant's 30-day Trial Period Ends	7/22/2013
Plaintiff's Rebuttal Disclosures	8/6/2013
Plaintiff's 15-day Rebuttal Period Ends	9/5/2013

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.
