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Filing date: **07/25/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91207858
Party	Defendant Warsaw Orthopedic, Inc.
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Date	07/25/2013
Attachments	OLIF Motion to Set aside default.pdf(288202 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Amendia, Inc.

Opposition No. 91207858

Opposer,

v.

Warsaw Orthopedic, Inc.,

Applicant.

**JOINT MOTION TO SET ASIDE NOTICE OF DEFAULT AND TO SUSPEND TO
PERMIT SETTLEMENT TO BE COMPLETED**

Pursuant to TMEP § 312.02, Applicant, Warsaw Orthopedic, Inc., and Opposer, Amendia, Inc., jointly agree that good cause exists as to why default judgment should not be entered against Applicant, and request the Board to set aside the notice of default and to suspend this matter so the parties may complete an already agreed-to settlement.

Opposer commenced this matter on November 6, 2012. The parties began settlement discussions and reached an agreement in principle prior to the time Applicant's answer was first due on December 16, 2012. The parties agreed on three extensions of time for Applicant to file the answer while Opposer was drafting the formal settlement agreement.

Opposer sent the draft agreement to Applicant on April 11, 2013, and the parties agreed to another extension of time for Applicant to file the answer, filed on April 15, 2013, which was granted by the Board, until May 16, 2013. There were additional delays for technical reasons and vacation schedules in finalizing the agreement. During this time, the new date did not appear on Applicant's attorney's docket while the parties continued to address the delays, and Applicant missed the deadline.

The parties agree that the delay in filing an answer was not the result of willful conduct or gross neglect on the part of Applicant, that Opposer will not be prejudiced by the delay, and that Applicant would have had a meritorious defense to the action had they not settled the matter.

The parties therefore jointly request the Board to set aside the notice of default.

The parties also respectfully request the Board to suspend this proceeding for three (3) months to allow the parties time to complete settlement of this matter.

Respectfully submitted,

Dated: July 25, 2013

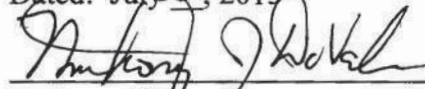
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Dated: July 25, 2013



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