

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500

Mailed: June 11, 2014

Opposition No. 91212080

Livingston International

v.

New Livingston S.p.a.

**Nicole Thier, Paralegal Specialist:**

On August 19, 2013, opposer served its notice of opposition. On August 27, 2013, opposer filed an amended notice of opposition.

Pursuant to Fed. R. Civ. P. 15(a)(1), made applicable to Board proceedings by Trademark Rule 2.116(a), a party may amend its pleading once as a matter of course within 21 days after serving it, or if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Fed. R. Civ. P. 12(b), (e) or (f), whichever is earlier. *See* Trademark Rule 2.107/2.115; TBMP § 507.01. However, as a practical matter, because the time to answer set by the Board's institution order is 40 days, a plaintiff may amend its complaint once as a matter of course beyond the initial 21 days from serving it until the defendant files either an answer or a motion under Fed. R. Civ. P. 12(b), (e) or (f). *See* TBMP § 507.02.

Opposer's amended notice of opposition was filed as a matter of course, and is accepted as opposer's operative pleading in this proceeding. *See* Fed. R. Civ. P. 15(a)(1)(A) and (B).

Since opposer's filings of the amended pleading, the parties have effected numerous extensions of time, the most recent consented motion was granted on February 10, 2014.

It has come to the Board's attention that an answer to the notice of opposition was due (as last reset) in this proceeding on May 26, 2014. Inasmuch as it appears that no answer has been filed, nor has applicant filed a motion to further extend the time to file an answer, notice of default is hereby entered against applicant pursuant to Fed. R. Civ. P. 55(a).<sup>1</sup>

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)(2).

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<sup>1</sup> Inasmuch as applicant is in default, the parties' obligations to hold the discovery conference, and to serve initial disclosures, are effectively stayed. *See* TBMP § 312.01.