

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: September 22, 2014

Opposition No. 91216503

Sturgis Motorcycle Rally, Inc.

v.

John Paul Dejoria

Veronica P. White, Paralegal Specialist:

The Board's order instituting this proceeding, issued May 22, 2014, set July 1, 2014, as the deadline for John Paul Dejoria ("applicant") to file its answer to the notice of opposition filed by Sturgis Motorcycle Rally, Inc. ("opposer"). However, on July 19, 2014, the Board issued a notice of default in light of applicant's failure to file an answer to the notice of opposition.

Now before the Board is applicant's motion, filed August 5, 2014, to set aside the entry of default. Applicant concurrently filed its answer with its motion to set aside the entry of default.

Whether default judgment should be entered against a party is determined in accordance with Fed. R. Civ. P. 55(c), which reads in pertinent part: "for good cause shown the court may set aside an entry of default." As a general rule, good cause to set aside a defendant's default will be found where the defendant's delay has not been willful or in bad faith, when prejudice to

the plaintiff is lacking, and where defendant has a meritorious defense. *See Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556(TTAB 1991).

In this case, the Board finds that opposer is not prejudiced by applicant's late filed answer. Moreover, mere delay does not constitute the type of prejudice envisioned by this rule, and the late-filed answer, and the response to the Board's notice of default, there is nothing in the record which indicates that the reasons for applicant's delay were willful or in bad faith. In view of the foregoing, applicant's motion to set aside default is **GRANTED**, and applicant's answer to the notice of opposition is noted and accepted as applicant's operative pleading in this proceeding.

Accordingly, inasmuch as the record indicates that applicant seeks to set forth a meritorious defense to the allegations, that any prejudice to opposer is minimal, and that applicant has not acted in bad faith, for the purpose of delay or with a lack of diligence, the Board's July 19, 2014, default is set aside.

Schedule

The remaining conferencing, disclosure, discovery, and trial dates are reset as follows:

Deadline for Discovery Conference	10/22/2014
Discovery Opens	10/22/2014
Initial Disclosures Due	11/21/2014
Expert Disclosures Due	3/21/2015
Discovery Closes	4/20/2015
Plaintiff's Pretrial Disclosures	6/4/2015

Plaintiff's 30-day Trial Period Ends	7/19/2015
Defendant's Pretrial Disclosures	8/3/2015
Defendant's 30-day Trial Period Ends	9/17/2015
Plaintiff's Rebuttal Disclosures	10/2/2015
Plaintiff's 15-day Rebuttal Period Ends	11/1/2015

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 taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rules 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

* * * * *