

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 8, 2017

Opposition No. 91225158

Elizabeth and James Holdings, LLC

v.

Nirvana Vapor, LLC

Monique Tyson, Paralegal Specialist:

The time for Opposer to file a brief on the case has expired, and no brief on the case is of record.

Trademark Rule 2.128(a)(3) provides

When a party in the position of plaintiff fails to file a main brief, an order may be issued allowing plaintiff until a set time, not less than fifteen days, in which to show cause why the Board should not treat such failure as a concession of the case. If plaintiff fails to file a response to the order, or files a response indicating that plaintiff has lost interest in the case, judgment may be entered against plaintiff. If a plaintiff files a response to the order showing good cause, but does not have any evidence of record and does not move to reopen its testimony period and make a showing of excusable neglect sufficient to support such reopening, judgment may be entered against plaintiff for failure to take testimony or submit any other evidence.

In view of the failure to file a brief, Opposer is allowed until thirty days from the mailing date of this order to show cause why the Board should not treat the failure to file a brief as a concession of the case, failing which a judgment dismissing the notice of opposition with prejudice will be entered. *See* TBMP §§ 536 and 801.02(a).

Proceedings are otherwise suspended.¹

¹ Applicant's answer filed January 11, 2016 is noted.