

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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Alexandria, VA 22313-1451
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June 10, 2019

Opposition No. 91246567

Dynamite Wholesale, LLC

v.

Phantom I.P., LLC

Monique Tyson, Paralegal Specialist:

No answer having been timely received, the Board issued notice of default to Applicant, on April 13, 2019, allowing Applicant thirty days in which to show cause why judgment should not be entered against it. Now before the Board is Applicant's May 10, 2019 motion to set aside the notice of default. This motion is uncontested.

In the motion, Applicant explains that its failure to file a timely answer was inadvertent and not of gross neglect or willful conduct.

In view thereof, the Board finds good cause to discharge Applicant's default. Fed. R. Civ. P.55; *Fred Hayman Beverly Hills Inc. v. Jacques Bernier Inc.*, 21 USPQ2d 1556 (TTAB 1991).

Accordingly, Applicant's motion is granted, the notice of default is set aside, and Applicant is allowed until **July 10, 2019**, to file an answer to the notice of opposition (or otherwise extend or suspend its time to answer).

Accordingly, answer, conference, disclosure, discovery and trial dates, are reset as follows:

Time to Answer	7/10/2019
Deadline for Discovery Conference	8/9/2019
Discovery Opens	8/9/2019
Initial Disclosures Due	9/8/2019
Expert Disclosures Due	1/6/2020
Discovery Closes	2/5/2020
Plaintiff's Pretrial Disclosures Due	3/21/2020
Plaintiff's 30-day Trial Period Ends	5/5/2020
Defendant's Pretrial Disclosures Due	5/20/2020
Defendant's 30-day Trial Period Ends	7/4/2020
Plaintiff's Rebuttal Disclosures Due	7/19/2020
Plaintiff's 15-day Rebuttal Period Ends	8/18/2020
Plaintiff's Opening Brief Due	10/17/2020
Defendant's Brief Due	11/16/2020
Plaintiff's Reply Brief Due	12/1/2020
Request for Oral Hearing (optional) Due	12/11/2020

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).