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

Proceeding	91251946
Party	Defendant John Geiger Collection LLC
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Submission	Other Motions/Papers
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Date	01/20/2020
Attachments	Set Aside Default - Geiger.pdf(92002 bytes)

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

Re: Application Serial No. 88330617
Published on October 1, 2019

Opposition No. 91251946

Kurt Geiger Limited

Opposer

v.

John Geiger Collection LLC

Applicant.

_____ /

RESPONSE TO ORDER TO SHOW CAUSE

Applicant, JOHN GEIGER COLLECTION, LL C (“Applicant”), hereby responds to Notice of Default and Order to Show Cause why judgment of default should not be entered against Applicant and, in support thereof, states as follows:

1. Fed. R. Civ. P. 55(c) states, *inter alia*, “The court may set aside an entry of default for good cause.”

2. Good cause is “usually found to be established if the delay in filing is not the result of willful conduct or gross neglect on the part of the defendant, if the delay will not result in substantial prejudice to the plaintiff, and if the defendant has a meritorious defense.” *Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ.2d 1556, at *2 (TTAB Nov. 7, 1991). In *Fred Hayman*, the TTAB found good cause to set aside an entry of default and stated:

In the present case, the failure to timely file the answer was clearly due to an inadvertence on the part of applicant's counsel and not the result of any willful conduct or gross neglect. Moreover, the nine day delay in the filing of the answer will cause minimal prejudice to opposer. Finally, by the submission of an answer which is not frivolous, applicant has adequately shown that it has a meritorious defense.

3. Here, Applicant's failure to file an answer was due to the fact Applicant's counsel was alerted to the TTAB's ruling on Applicant's Motion to Dismiss until the day of this filing. Despite stated in the Notice of Appearance, the TTAB inadvertently failed to include Applicant's counsel's email darren@heitnerlegal.com¹, which caused delay regarding Applicant's counsel receipt of Notice of Default. Notwithstanding, Applicant's counsel responded expeditiously upon notice and will be filing an Answer to Opposer's Notice of Opposition in accordance with this response to set aside default.

4. Applicant's delay in filing an answer will cause minimal prejudice to Opposer, as Applicant's Answer is being filed well in advance of the 30-day period to show cause why default judgment should not be entered. Furthermore, as shown in Applicant's Motion to Dismiss and further iterated in Applicant's Answer, Applicant's Answer is not frivolous and Applicant boasts a meritorious defenses against the allegations set forth in Opposer's Notice of Opposition.

5. Based on the foregoing, Applicant requests that default be set aside so that the Opposition may proceed on its merits.

January 20, 2020

Respectfully submitted,

Heitner Legal, P.L.L.C.
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By: /s/ Alan Wilmot
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¹ Please include this email address for Applicant to that timely receipt of responses can be effected.

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of January, 2020, a copy of the foregoing was sent via email to Applicant's Attorney of Record, addressed as follows:

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