

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
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LTS

March 10, 2020

Opposition No. 91252380

New York University

v.

ZhiWe Song

By the Trademark Trial and Appeal Board:

On November 14, 2019, Opposer filed a notice of opposition against Applicant's application Serial Nos. 88503034 and 88513834. 1 TTABVUE. As set in the Board's order of November 19, 2019, Applicant's deadline to file an answer in this proceeding was December 29, 2019. 2 TTABVUE 3. On January 8, 2020, the Board issued a notice of default due to Applicant's failure to timely file an answer to the notice of opposition or a motion to extend his time to answer. 4 TTABVUE. The Board allowed Applicant thirty days in which to show cause why default judgment should not be entered against him. *Id.*

On January 9, 2020, Applicant filed a document titled "Abandonment of Trademark Application and Consent." 5 TTABVUE. In that submission, "Applicant ... expressly abandons the above-identified application ... without prejudice[.]" and the "above-identified application" is listed in the caption as "Serial No.: 88503034."

Id. at 2. The same day, Opposer filed a response to Applicant's abandonment, stating that it did not consent to the withdrawal, and therefore the abandonment must be "with prejudice." 6 TTABVUE 2.

On February 7, 2020, the Board issued an order noting that: (1) Applicant's January 9, 2020 filing did not include proof of service; (2) Opposer indicated that it did not consent to Applicant's January 9, 2020 filing, and a "consent" motion may not be filed unless the filing party has the actual consent of the adverse party to file such a motion; and (3) Opposer has opposed two of Applicant's applications, Serial Nos. 88503034 and 88513834; yet, the abandonment only identified one application (i.e., Serial No. 88503034), and Applicant did not otherwise respond to the notice of default as to application Serial No. 88513834. 7 TTABVUE 2. In view of these issues with Applicant's January 7, 2020 filing, the Board allowed Applicant until February 27, 2020 to refile his notice of withdrawal of the application(s) and/or otherwise show cause why judgment by default should not be entered against him in accordance with Fed. R. Civ. P. 55(b)(2). *Id.* at 2-3.

No response to the Board's February 7, 2020 order has been filed.

Accordingly, judgment by default is hereby entered against Applicant, the opposition is sustained, and registration to Applicant is refused. *See* Fed. R. Civ. P. 55(b), and Trademark Rule 2.106(a).