

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

February 25, 2021

Opposition No. 91263393

Enterprise Holdings, Inc.

v.

Big Truck Rental, LLC

Jennifer L. Elgin, Interlocutory Attorney:

Notice of Default

On January 7, 2021, the Board issued a notice of default against Applicant pursuant to Fed. R. Civ. P. 55(a) for failure to file either an answer to the notice of opposition, or a motion to extend the time to file said answer. On January 8, 2021, Applicant filed a response to the Board's notice of default and show cause order along with a proposed answer to the notice of opposition (10 TTABVUE).¹ Applicant supplemented its filing on January 13, 2021 (11 TTABVUE).²

¹ It appears Applicant filed the same document twice in error. 9 TTABVUE, 10 TTABVUE. Record citations are to TTABVUE, the Board's publicly available docket history system. *See Turdin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014).

² A notice of default essentially is an ex parte matter between the Board and a defendant and thus does not contemplate full briefing by the parties. *Compare* TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) §§ 312.01 *and* 502.02(b) (June 2020). The decision whether to enter default is within the Board's discretion. In exercising that discretion, the Board is mindful of its policy to decide cases on their merits where possible and therefore only reluctantly enters judgment by default for failure to timely answer. *See id.* at § 312.02.

Applicant argues its failure to file a timely answer was due to a docketing error on the part of its counsel and not the result of willful conduct or gross neglect, and Opposer will not be substantially prejudiced by the short delay. Applicant further argues it has a meritorious defense to the action, as shown by its proposed answer. *Id.* at 2.

Inasmuch as the record does not indicate that Applicant acted in bad faith or for the purpose of delay or with a lack of diligence, the delay is minimal and because Applicant seeks to set forth a meritorious defense to the allegations, the Board's January 7, 2021 notice of default is set aside for good cause shown. *See Fred Hayman Beverly Hills, Inc. v. Jacques Bernier, Inc.*, 21 USPQ2d 1556, 1557 (TTAB 1991). *See also* TBMP § 312.02 (2021). Applicant's answer to the notice of opposition, filed January 13, 2021, is accepted and made of record.

Information Requested Regarding Potentially Related Case

It has come to the Board's attention that the parties or their related companies may be involved in a related proceeding involving the same mark, *Vanguard Trademark Holdings USA LLC v. Big Truck Rental*, Opposition No. 91263394 (filed July 3, 2020).

Accordingly, to determine if consolidation is appropriate, Opposer is ordered to inform the Board within **20 days** of the date hereof as to the relationship between Vanguard Trademark Holdings USA LLC and Opposer.³

Proceedings are **suspended** pending Opposer's response.

³ Should the parties both consent to consolidation, Opposer should so state.