ESTTA Tracking number: **ESTTA1406843**
Filing date: **01/08/2025**

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

Proceeding no.	91290986
Party	Defendant Licensing IP International S.Ã r.l.
Correspondence address	MARISSA B LEWIS MITCHELL SILBERBERG & KNUPP LLP 437 MADISON AVE, 25TH FLOOR NEW YORK, NY 10022 UNITED STATES Primary email: trademark@msk.com 212-509-3900
Submission	Stipulated/Consent Motion to Reopen
Filer's name	Marissa B. Lewis
Filer's email	mbl@msk.com
Signature	/Marissa B. Lewis/
Date	01/08/2025
Attachments	Barrett v. LIPI - Consent Motion to Set Aside Default(20423834.1).pdf (105433 bytes)

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

Barrett Family Enterprises, LLC, Opposer, v. Licensing IP International S.à r.l., Applicant.	Opposition No. 91290986

CONSENT MOTION TO SET ASIDE NOTICE OF DEFAULT

Pursuant to Section 312.02 of the Trademark Trial and Appeal Board Manual of Procedure, and with the consent of Opposer Barrett Family Enterprises, LLC ("Opposer"), Applicant Licensing IP International S.à r.l. ("Applicant") respectfully requests that the Trademark Trial and Appeal Board's ("Board") set aside the Notice of Default issued December 10, 2024. *See* 10 TTABVUE. Opposer is concurrently filing a Dismissal of this Opposition with prejudice.

On August 27, 2024, Opposer and Applicant (the "Parties") filed a Stipulated Request to Suspend. *See* 8 TTABVUE. The Parties requested that the proceedings be suspended "pending continued examination of Barrett's U.S. Application No. 97647601 (the '[Barrett] Application') and withdrawal of the refusal to register the Application due to a likelihood of confusion with Licensing IP's marks." *Id.* at 1. The Board granted the Request to Suspend. *See* 9 TTABVUE.

As of the date of this filing, the examination of the Barrett Application is complete. On January 8, 2025, the Notice of Publication issued.[1] Accordingly, pursuant to the Parties' agreement, Opposer has agreed to dismiss this Opposition with prejudice.

[1] https://tsdr.uspto.gov/documentviewer?caseId=sn97647601&docId=PB120250108022224.

In the interim, however, the Board issued a Notice of Default. *See* 10 TTABVUE. The Parties respectfully submit that "good cause" exists to set aside the Notice of Default.[2] The delay in responding to the Notice of Opposition was inadvertent and caused no prejudice to Opposer, who has consented to setting aside the Notice of Default and is concurrently filing a Dismissal of this Opposition with prejudice. Accordingly, the Board should set aside the Notice of Default, and terminate the proceedings in accordance with the concurrently-filed Dismissal of the Opposition. *See Autozone Parts, Inc. v. MS Motorsports, LLC d/b/a Motozone*, 2011 WL 13054771, *2 (T.T.A.B. Dec. 8, 2011) (finding good cause where "applicant had notice of the Board's orders" but failed to timely respond as a "result of 'mistake' and/or 'inadvertence'").

Dated this 8th day of January 2025.

Respectfully submitted,

WRIGHT, LINDSEY & JENNINGS LLP	MITCHELL SILBERBERG & KNUPP LLP
/Meredith Lowry/	/Marissa B. Lewis/
Meredith Lowry	Marissa B. Lewis
3333 Barrett Hills Pkwy, Suite 510	437 Madison Ave., 25th Floor
Rogers, AR 72758	New York, NY 10022
mlowry@wlj.com	trademark@msk.com
Phone: (479) 631-3282	Phone: 212.509.3900
Attorneys for Opposer	Attorneys for Applicant

[2] "The determination of whether default judgment should be entered against a party lies within the sound discretion of the Board." TBMP § 312.02 (citations omitted). The Board is "very reluctant to enter a default judgment for failure to file a timely answer, and tends to resolve any doubt on the matter in favor of the defendant." *Id.*. The Board will set aside a notice of default upon a showing of "good cause." *Id.* "Good cause why default judgment should not be entered against a defendant, for failure to file a timely answer to the complaint, is usually found when the defendant shows that (1) the delay in filing an answer was not the result of willful conduct or gross neglect on the part of the defendant, (2) the plaintiff will not be substantially prejudiced by the delay, and (3) the defendant has a meritorious defense to the action." *Id.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on January 8, 2025, a copy of the foregoing Consent Motion to Set Aside Notice of Default has been served upon the following counsel of record for Opposer by email.

Meredith Lowry
WRIGHT, LINDSEY & JENNINGS LLP
3333 Barrett Hills Pkwy, Suite 510
Rogers, AR 72758
mlowry@wlj.com
Phone: (479) 631-3282

/Marissa B. Lewis/
Marissa B. Lewis