

**UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513**

Mailed: February 6, 2003

Cancellation No. 40,758

ARTHUR M. AHALT

v.

MILTON BORDWIN

Cindy B. Greenbaum, Attorney:

In response to the notice of default, issued October 28, 2002, petitioner states that on September 26, 2002, it had filed a combined motion for suspension and request for remand to the trademark examiner to consider a consent agreement between the parties.<sup>1</sup> Petitioner further states that in view of the referenced motion to suspend and remand, the Board issued the notice of default in error.

Although the Board has no record of having received the September 26, 2002 filing, the Office's computerized TICRS image scanning system, utilized in the law offices, shows that the law office received the September 26, 2002 filing.<sup>2</sup>

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<sup>1</sup> Respondent did not file a response to the notice of default. However, in light of the representations made in petitioner's submission, the Board will not enter judgment against respondent under Rule 55(b).

<sup>2</sup> The September 26, 2002 motion to suspend and remand does not include proof of a copy thereof on respondent. However, petitioner's respondent to the order to show cause includes, as an attachment, the motion to suspend, and a certificate of service on respondent of petitioner's response to the notice of

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Additional office records show that a notice of publication issued on January 29, 2003 for petitioner's application.

In view of the foregoing, the notice of default is vacated. Further, inasmuch as the contingency set forth in the motion to suspend has been satisfied, there is no reason to suspend the Board proceeding at this time. Accordingly, petitioner has until THIRTY DAYS from the mailing date of this order to file a withdrawal of the petition to cancel, failing which the Board will reset respondent's time to file an answer thereto.

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default. Thus, it is clear that respondent was served with a copy of the motion to suspend and remand, and there is no need for petitioner to serve a second copy thereof on respondent.