

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

In the Matter of Application Serial No. 75/446,316
Published in the Official Gazette on October 22, 2002

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Elizabeth Arden, Inc.

Opposer,

OPPOSITION NO.: 91155355

vs.

Ananda C. Rutkoff,

Applicant.

-----X
Box TTAB
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

MOTION SEEKING DEFAULT JUDGMENT

This is in response to the letter Applicant mailed to the Trademark Trial and Appeal Board on April 11, 2003.

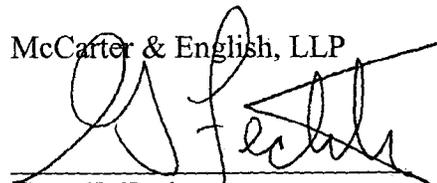
Opposer submits that default should be entered for the following reasons and moves that the Board enter a Notice of Default:

- (a) An Answer to the Notice of Opposition was not timely filed.
- (b) Applicant's letter of April 11, 2003 to the Trademark Trial and Appeal Board indicates that Applicant is "dissolving" its claim to the Trademark MILLENNIUM HERO in International; Class 3. Apparently Applicant meant to say that it is withdrawing its application to register MILLENNIUM HERO in International Class 3.
- (c) Applicant's letter to Opposer confirms that Applicant is, (i) not only "dissolving" its claim to the Trademark MILLENNIUM HERO in International Class 3, but more importantly (ii) "acquiescing" to Opposer's opposition to Applicant's use of MILLENNIUM HERO in International Class 3. Apparently, Applicant meant to say that it is conceding Opposer's claim of likely confusion and is either abandoning or withdrawing its application to register MILLENNIUM HERO in International Class 3.

Undersigned counsel hereby certifies that true, accurate, and complete copies of all of the Applicant's correspondence dated April 11, 2003 addressed to the Trademark Trial and Appeal Board and Opposor's Counsel, that was received by Opposor's Counsel, and are the basis of this Motion are attached hereto.

Respectfully submitted,

McCarter & English, LLP

A handwritten signature in black ink, appearing to read "G. Fechter", written over a horizontal line.

Gary H. Fechter

Attorney for Opposor

300 Park Avenue, 18th Floor

New York, New York 10022

(212) 609-6823

US PTO
Trademark Trial and Appeal Board
Box TTAB
No Fee
2900 Crystal Drive
Arlington, VA 22202-3513

Mailed: April 11, 2003

Opposition No. 91155355
Serial No. 75446316
Mark: The Millennium Hero

Ananda Charles Rutkoff
1150 E Palm Canyon Dr. Suite 54
Palm Springs, CA 92264

Gary H. Fechter
McCarter and English, LLP
300 Park Avenue, 18th Floor
New York, NY 10022-7402

Elizabeth Arden
v.
Rutkoff, Ananda C.

Dear Sir;

Regarding the received notice of opposition I hereby dissolve my trademark claim to International Class 003. I am in acquiescence to Elizabeth Arden's opposition of my use of International Class 003.

Please send a copy of any written response you make to the Trial and Appeals Board to my above address, if you believe that such a response is required by USPTO code. I have been legally advised that it is not necessary by code since my acquiescence makes the opposition moot.

Sincerely,


Ananda Charles Rutkoff

Ananda Charles Rutkoff
1150 East Palm Canyon Cr. #54
Palm Springs, CA. 92264

Trademark Trial and Appeal Board
Box TTAB
No Fee
USPTO
2900 Crystal Drive
Arlington, VA 22202

Re: Case As Opposition # 91155355
Mark: THE MILLENIUM HERO
Serial No. 75/446,316
Filed January 27, 1998

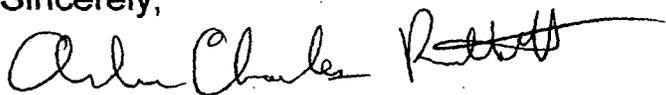
Mailing Date: April 11, 2003

Regarding the received notice of opposition I hereby dissolve our trademark claim to International Class 003. I am contacting the other party's representative immediately to let them know this. I am in acquiescence to their opposition of my use of International Class 003.

Thank you for your cooperation in this matter and please cancel our International Class 003 application and continue with the prosecution of my registration, serial No. 75/446,316.

Included is a copy of my letter to Gary H. Fechter of McCarter & English, LLP who is the attorney of record for Elizabeth Arden and has filed the notice of opposition.

Sincerely,



Ananda Charles Rutkoff

Ananda Charles Rutkoff
1150 East Palm Canyon Cr. #54
Palm Springs, CA. 92264

Trademark Trial and Appeal Board
Box TTAB
No Fee
USPTO
2900 Crystal Drive
Arlington, VA 22202

Re: Case As Opposition # 91155355
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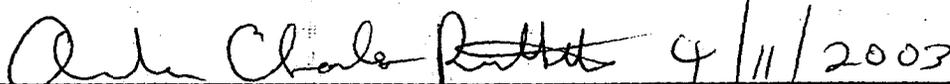
April 11, 2003

I hereby revoke all previous powers of attorney or authorizations of agent given to Kelly Bauersfeld Lowry & Kelley, LLP (Scott Kelley is contact attorney), 6320 Canoga Ave., Suite 1650, Woodland Hills, CA 91367.

I am the Applicant/Inventor.

Thank you for attending to this matter.

Ananda Charles Rutkoff



Signature

Ananda Charles Rutkoff
1150 East Palm Canyon Cr. #54
Palm Springs, CA. 92264

Trademark Trial and Appeal Board
Box TTAB
No Fee
USPTO
2900 Crystal Drive
Arlington, VA 22202

April 11, 2003

Re: Case as opposition #91155355
Mark: THE MILLENIUM HERO
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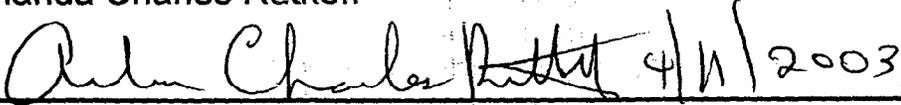
Please change the correspondence address of the above identified trademark to:

Ananda C. Rutkoff
1150 East Palm Canyon Drive Suite 54
Palm Springs, CA. 92264

I am the Applicant/Inventor.

Thank you for attending to this matter.

Ananda Charles Rutkoff



Signature

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

X

Elizabeth Arden, Inc.

Opposor,

Certificate of Service

vs.

Ananda C. Rutkoff,

Applicant.

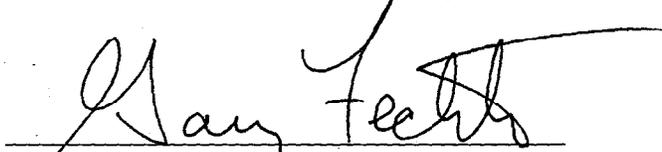
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STATE OF NEW YORK)

) ss.:

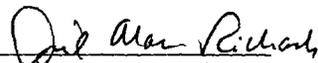
COUNTY OF NEW YORK)

I hereby certify that a copy of the foregoing Motion Seeking Default Judgment, was mailed via First Class Mail, to Ananda Charles Rutkoff, 1150 E. Palm Canyon Drive, Suite 54, Palm Springs, CA 92264.



Gary H. Fechter

Sworn to before me this
16th day of April, 2003



Notary Public

DAVID ALAN RICHARDS
Notary Public, State of New York
No. 4512608
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires June 30, 2006

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

X

Elizabeth Arden, Inc.

Opposor,

Certificate of Mailing

vs.

Ananda C. Rutkoff,

Applicant.

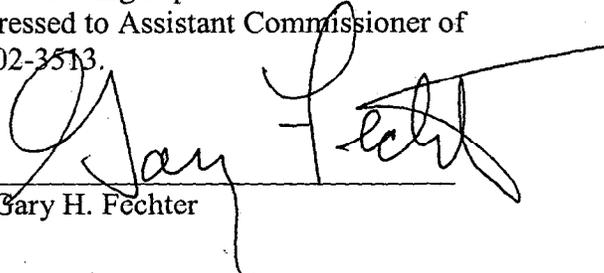
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STATE OF NEW YORK)

) ss.:

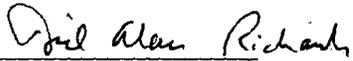
COUNTY OF NEW YORK)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to Assistant Commissioner of Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513.



Gary H. Fechter

Sworn to before me this
16th day of April, 2003



Notary Public

DAVID ALAN RICHARDS
Notary Public, State of New York
No. 4512608
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires June 30, 2006

2106

THB

MCCARTER & ENGLISH, LLP

ATTORNEYS AT LAW

300 PARK AVENUE

NEW YORK, NEW YORK 10022-7402

(212) 609-6800

TELECOPIER (212) 609-6921



04-21-2003

U.S. Patent & TMO/TM Mail RcptDt. #76

NEWARK
PHILADELPHIA
WILMINGTON

CHERRY HILL
HARTFORD
BALTIMORE

Direct Dial: (212) 609-6823

Email: gfechter@mccarter.com

April 17, 2003

Box TTAB-No Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

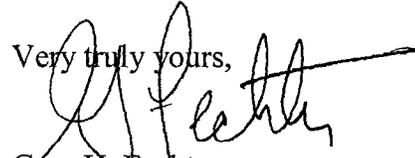
Re: Elizabeth Arden, Inc. v. Ananda C. Rutkoff
Trademark Opposition No.: 91155355

Dear Sir or Madam:

We enclosed for filing an original and two (2) copies of a Motion Seeking Default Judgment regarding the above Opposition.

Please indicate receipt of this Motion by stamping the enclosed pre-paid postage postcard, and return same to us.

Very truly yours,


Gary H. Fechter

Enclosure
GHF/sq

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