

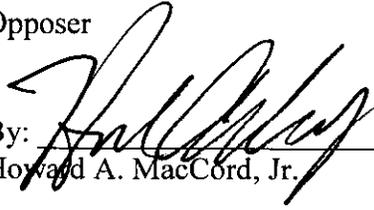


4. Opposer has established a prima facie case of success on the merits in its Notice of Opposition mailed on July 21, 2004. Specifically, Opposer has established
  - a. a prima facie case of likelihood of confusion between Applicant's mark and Opposer's registered mark (registration no. 1,108,876), and
  - b. a prima facie case of Opposer's priority to the mark.
5. The Board set the discovery period to begin on August 16, 2004. It would be a waste of Opposer's resources to propound discovery requests if the Applicant is defaulting, so it makes sense to for Opposer to wait to see if the Applicant has defaulted before propounding discovery requests. But, Opposer loses some of its discovery period by doing so, so an early determination that the Applicant is default and that Opposer should be granted relief is in the interest of justice.

As Applicant is in default for failure to respond, Opposer prays for relief in the form of a Default Judgment in favor of Opposer and that registration of the subject mark (serial no. 78/235,098) be denied.

Respectfully submitted,

LORILLARD LICENSING CO. LLC  
Opposer

By:   
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Attorney for Opposer

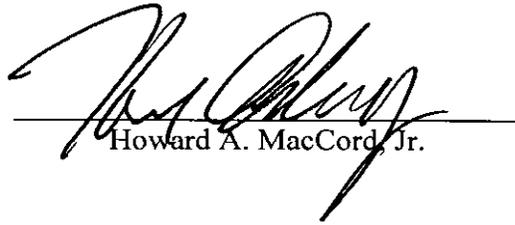
Date: September 14, 2004

File No.: 4800-137

Certificate of Service

I hereby certify that the foregoing Motion for Default Judgment was sent by first class mail on 14 September 2004 to Applicant as follows:

**Romas Marcinkevicius  
RM Trust  
1010 Seminole Drive Suite 1607  
Fort Lauderdale, FL 33304**

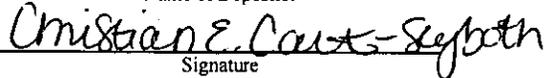
  
Howard A. MacCord, Jr.

CERTIFICATE OF EXPRESS MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE VIA FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO **BOX TTAB, COMMISSIONER for TRADEMARKS, 2900 Crystal Drive, Arlington, VA 22202-3513**, on September 14, 2004.  
(Date of Deposit)

Christian E. Carter-Seyboth

\_\_\_\_\_  
Name of Depositor

  
Signature

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