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Filing date: **07/17/2006**

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

Proceeding	91170094
Party	Plaintiff Ecolab Inc.
Correspondence Address	Edward R. Courtney Ecolab Inc. 370 Wabasha Street N.ESC/F7 St. Paul, MN 55102 UNITED STATES edward.courtney@ecolab.com
Submission	Motion for Default Judgment
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Date	07/17/2006
Attachments	Motion for Default Judgment 2006 07 17.pdf (3 pages)(100121 bytes)

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

In the matter of Application Serial No. 76/632,160
Filed February 25, 2005
For the mark **ECOPETS Stylized**
Published in the *Official Gazette* (Trademarks) on November 29, 2005
Attorney Docket No. OPP-76/632,160

ECOLAB INC.,

Opposer,

v.

NSDC, LLC,

Applicant.

Opposition No. 91170094

MOTION FOR DEFAULT JUDGMENT

Ecolab Inc. (hereinafter "Opposer"), hereby moves for entry of default judgment against NSDC, LLC (hereinafter "Applicant"), for failure to timely file an answer to Opposer's Notice of Opposition, filed on March 29, 2006. The Trademark Trial and Appeal Board ("TTAB") mailed an electronic notification of Opposition No. 91170094 to the attorney of record for Applicant on March 29, 2006, requiring an answer no later than July 8, 2006. To the best of Opposer's knowledge, no such answer has been filed with the TTAB, and no such answer was served upon Opposer.

Trademark Rule of Practice § 2.114(a) provides that "[i]f no answer is filed within the time set, the petition may be decided as in case of default." 37 C.F.R. § 2.114(a). While the TTAB will normally issue a notice of default, allowing the Applicant twenty days (20) from the mailing date of the notice in which to show cause why a default judgment should not be entered against it, the Trademark Trial and Appeal Board Manual of Procedures ("TBMP") also provides that "the plaintiff, realizing that the defendant is in default, may file a motion for default

judgment (in which case the motion may serve as a substitute for the Board's issuance of a notice of default)." TBMP § 312.01 (parenthetical in original).

Accordingly, Opposer respectfully requests that the present Motion for Default Judgment, having been mailed to Applicant's attorney of record at the address on record at the U.S. Patent and Trademark Office, as set forth on the attached Certificate of Service, serve as a substitute for the Board's issuance of a Notice of Default, and begin the running of Applicant's twenty-day time period in which to demonstrate good cause why default judgment should not be entered it. *See Fed. R. Civ. P. 55(c); See also Paolo's Assocs. Ltd. P'ship v. Paolo Bodo, 21 U.S.P.Q.2d 1899 (Comm'r 1990).*

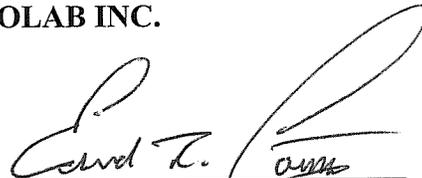
Applicant believes that no fee is required for filing this paper. In the event that any fee is required, the Commissioner is authorized to draw on the Deposit Account of Ecolab Inc, Deposit Account No. 050450.

Respectfully Submitted,

ECOLAB INC.

Date: July 17, 2006

By:



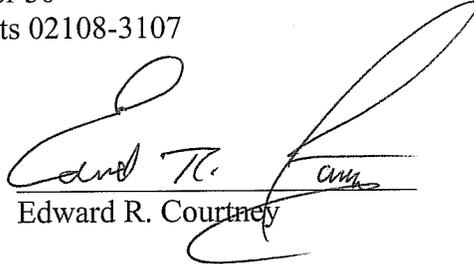
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **MOTION FOR DEFAULT JUDGMENT** was served upon the following attorney of record for Applicant by First Class

Mail, postage pre-paid, this 17th day of July 2006:

Stephen J. Gaudet, Esq.
Perkins, Smith & Cohen, LLP
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Boston, Massachusetts 02108-3107


Edward R. Courtney