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

Proceeding	91172323
Party	Plaintiff C. Joe Miller, Dow AgroSciences LLC
Correspondence Address	Julia Spoor Gard Barnes & Thornburg 11 South Meridian Street Indianapolis, IN 46204 UNITED STATES kabroshous@dow.com, jgard@btlaw.com
Submission	Motion for Default Judgment
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Date	10/05/2006
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Mark: TERMITE SENTRY

Dow AgroSciences, LLC

Opposer,

v.

Environmental Resource
Technologies, LLC

Applicant.

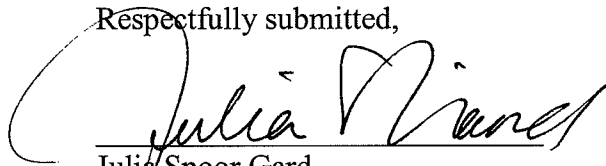
**In the matter of trademark application
Serial No. 78/718591; Published in the
Official Gazette June 20, 2006**

Opposition No. 91172323

**MOTION FOR DEFAULT JUDGMENT
PURSUANT TO 37 C.F.R. § 2.106(a) AND T.B.M.P. § 312.01**

Opposer, Dow AgroSciences, LLC, pursuant to 37 C.F.R. § 2.106(a) and the Trademark Trial and Appeal Board Manual of Procedure ("T.B.M.P.") § 312.01, by counsel, hereby moves for default judgment against Applicant, Environmental Resource Technologies, LLC, due to Applicant's failure to file an answer to the Notice of Opposition within the time set by the Board. A supporting memorandum and tendered order are attached hereto.

Respectfully submitted,



Julia Spoor Gard
Mary Jane Frisby
David A. W. Wong
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, IN 46204-3535
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on 05 October 2006, a copy of the foregoing "MOTION FOR DEFAULT JUDGMENT" (in connection with the mark "TERMITE SENTRY," Opposition No. 91172323, Serial No. 78/718591) was served on Applicant by U.S. certified mail, postage prepaid to:

JONATHAN E. PRUDEN
KAUFMAN & CANOLES
PO BOX 3037
NORFOLK, VA 23514-3037
Attorney for Applicant

Name: _____

Holly R. Kelley

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**In the matter of trademark application
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**MEMORANDUM IN SUPPORT OF OPPOSER'S MOTION FOR DEFAULT
JUDGMENT PURSUANT TO 37 C.F.R. § 2.106(a) AND T.B.M.P. § 312.01**

Opposer, Dow AgroSciences LLC, by counsel, submits this memorandum in support of its motion for default judgment pursuant to 37 C.F.R. § 2.106(a) and the Trademark Trial and Appeal Board Manual of Procedure ("T.B.M.P.") § 312.01, due to the failure of Applicant, Environmental Resource Technologies, LLC, to file an answer to Opposer's Notice of Opposition.

THE BASIS FOR DEFAULT JUDGMENT

After a Notice of Opposition has been filed, the Trademark Trial and Appeal Board ("the Board") notifies the Applicant of the time within which an answer must be filed. See 37 C.F.R. § 2.105; T.B.M.P. §310. If the Applicant does not file an answer, or a request for an extension of time to answer, within the time set by the Board, the opposition may be decided as in case of default. See 37 C.F.R. § 2.114; T.B.M.P. §312.01.

Opposer filed its Notice of Opposition on August 11, 2006. On August 14, 2006, the Board mailed notice to Applicant of the filing of the Notice of Opposition and of the due date for filing an answer forty days after the mailing date of the notice (September 23, 2006).

As of October 3, 2006, Applicant has not filed and served an Answer to the Notice of Opposition or a request for an extension of time to answer the Notice of Opposition.

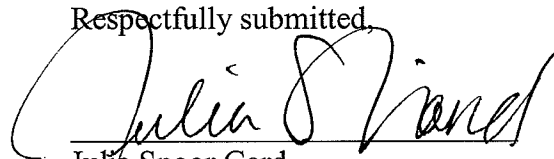
Accordingly, the Board should conclude that the Applicant has no intention of responding to Opposer's Notice of Opposition, and has no intention of participating in the subject proceeding related to the mark TERMITE SENTRY, Serial No. 78/718591.

CONCLUSION

It is evident that Applicant has no intention of participating in this opposition proceeding or of defending its application. Accordingly, the Board should enter judgment against the Applicant, issue a Notice of Default against Applicant, and judge Applicant's application for the mark TERMITE SENTRY, Serial No. 78/718591 successfully opposed.

A tendered order entering default judgment against Applicant is attached.

Respectfully submitted,

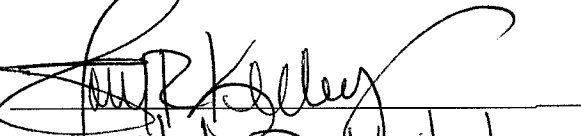
A handwritten signature in black ink, appearing to read "Julia Spoor Gard", is written over a horizontal line.

Julia Spoor Gard
Mary Jane Frisby
David A. W. Wong
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, IN 46204-3535
Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on 05 October 2006, a copy of the foregoing "MEMORANDUM IN SUPPORT OF OPPOSER'S MOTION FOR DEFAULT JUDGMENT" (in connection with the mark "TERMITE SENTRY," Opposition No. 91172323, Serial No. 78/718591) was served on Applicant by U.S. certified mail, postage prepaid to:

JONATHAN E. PRUDEN
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NORFOLK, VA 23514-3037
Attorney for Applicant


Name: Jonathan E. Pruden

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DEFAULT JUDGMENT

Opposer, Dow AgroSciences, LLC, by counsel, having moved pursuant to 37 C.F.R. § 2.106(a) and T.B.M.P. §312.01 for the entry of default judgment due to Applicant's failure to timely file an answer to the Notice of Opposition, and the Board having considered the motion and the record, and being otherwise sufficiently advised,

IT IS HEREBY ORDERED:

1. That the Opposer's Motion is GRANTED;
2. That judgment is entered in favor of Opposer on Opposer's Notice of Opposition;
3. That the application for the mark TERMITE SENTRY, Serial No. 78/718591, is hereby successfully opposed.

So Ordered this _____ day of _____, 2006.

TRADEMARK TRIAL AND APPEAL BOARD