

ESTTA Tracking number: **ESTTA368736**

Filing date: **09/16/2010**

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

Proceeding	91188256
Party	Plaintiff The Susan G. Komen Breast Cancer Foundation, Inc. d/b/a Susan G. Komen for the Cure
Correspondence Address	JOHN M. CONE HITCHCOCK EVERT LLP PO BOX 131709 DALLAS, TX 75313-1709 UNITED STATES jccone@hitchcockevert.com
Submission	Motion for Default Judgment
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Date	09/16/2010
Attachments	100916 Motion for Judgment.pdf (3 pages)(81668 bytes)

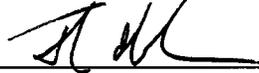
Rule 2.120(g) provides that the Board may impose against a party who fails to comply with an order of the Board relating to discovery any of the sanctions provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure. These sanctions include “rendering a default judgment against the disobedient party.” Fed. R. Civ. P. 37(b)(2)(vi).

Earlier in this proceeding, after numerous extensions, applicant filed an answer to the Notice of Opposition. The answer was, however, filed after the deadline set in the Board’s then-current scheduling order. Moreover, the applicant failed to serve a copy of the answer on the opposer. At that time, the Board issued an order, mailed September 2, 2009 explaining in great detail to the *pro se* applicant the importance of respecting deadlines and procedures in this proceeding. Given this warning, applicant should not be heard to excuse his total failure to comply with the Board’s Order on the basis of lack of knowledge of the importance of following those orders.

Opposer asks the Board to enter a default judgment against applicant for his total failure to comply with the Board’s Order of July 15, 2010 requiring him to serve answers to opposer’s discovery.

Dated: September 16, 2010

Respectfully submitted,



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FOUNDATION, INC. d/b/a SUSAN G.
KOMEN FOR THE CURE

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of September 2010, a true and correct copy of the foregoing document was served via U.S. First Class Mail, postage prepaid on Applicant Andrew J. Covault, 7615 Southwold Ct., Cumming, GA 30041-8314.



John M. Cone