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Filing date: **07/03/2014**

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

| | |
|------------------------|---|
| Proceeding | 91209747 |
| Party | Defendant Bluewater Key RV Ownership Park Property Owners Association, Inc. |
| Correspondence Address | ARLEN L OLSEN SCHMEISER OLSEN & WATTS LLP 22 CENTURY HILL DR , STE 302 LATHAM, NY 12110-2137 UNITED STATES LMOLLOY@IPLAWUSA.COM, AOLSEN@IPLAWUSA.COM, aminor@iplawusa.com, dpomonis@iplawusa.com, ctuminello@iplawusa.com, aolsen@iplawusa.com |
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| Signature | /Arlen L. Olsen/ |
| Date | 07/03/2014 |
| Attachments | RequestForEntryOfSummJudg_wCertOfServ_7-3-14.pdf(99474 bytes) |

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

In the Matter of Application Serial No. 85644802
Published in the Official Gazette on November 13, 2012
Mark: Bluewater Key in International Class: 43

CLARK, RITA M. d/b/a
BLUEWATER RENTALS

Opposer,

Opposition No. 91209747

v.

BLUEWATER KEY RV OWNERSHIP
PARK PROPERTY OWNERS
ASSOCIATION, INC.,

Applicant

**APPLICANT/PETITIONER'S REQUEST FOR ENTRY OF SUMMARY JUDGMENT
AGAINST OPPOSER/RESPONDENT FOR OPPOSER/RESPONDENT'S FAILURE TO FILE
AN OPPOSITION BRIEF**

Date: July 3, 2014

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Autondria S. Minor, Esq.
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On April 29, 2014, Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association filed a summary judgment motion against an opposition of Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark and in support of a cancellation counterclaim of Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association. *See* Doc. # 16.¹ The Trademark Trial and Appeal Board granted Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark an extension of time to respond to the summary judgment motion until June 30, 2014. *See* Doc. # 24. On June 30, 2014, Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark failed to file a response to the summary judgment motion of Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association. On July 1, 2014, Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark filed a withdrawal of opposition without consent of the Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association. *See* Doc. # 25.

The counterclaim of Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association is not withdrawn because the counterclaim for cancellation was filed by Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association. Because Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark did not file an opposition brief on June 30, 2014, the TTAB has the option of treating the motion for summary judgment as conceded by Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark. *See* TTAB 502.04; 37 C.F.R. § 2.127(a); *Chesebrough-Pond's Inc. v. Faberge, Inc.*, 618 F.2d 776, 205 U.S.P.Q. 888, 891 (C.C.P.A. 1980). Further, in the United States Patent and Trademark Office, Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark filed a surrender of U.S. Trademark Registration No. 4,274,836 for Bluewater Key on July 1, 2014. *See* Ex. A. As such, the Trademark Trial and Appeal Board (“TTAB”) may enter judgment against Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark on the summary judgment motion. Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners

¹ The term, “Doc.” refers to the Trademark Trial and Appeal Board’s docket entry numbers.

Association requests that the TTAB dismiss with prejudice the opposition of Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark. In addition, the cancellation counterclaim of Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association is conceded by Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark since Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark failed to file an opposition brief. Thus, Applicant/Petitioner, Bluewater Key RV Ownership Park Property Owners Association requests that the TTAB enter summary judgment against Opposer/Respondent, Bluewater Rentals d/b/a Rita Clark on the cancellation counterclaim.

Date: July 3, 2014

/Arlen L. Olsen/
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Applicant/Petitioner's Request for Entry of Summary Judgment Against Opposer/Respondent for Failure to File an Opposition Brief is being filed electronically and is being served by United States Post Office, postage prepaid on Opposer's attorneys, Kevin Markow and Michael De Biase of Becker & Poliakoff, P.A., 1 East Broward Blvd., Ft. Lauderdale, Florida 33301 on this 3rd day of July 2014.

/Arlen L. Olsen/
Arlen L. Olsen, Esq.

Surrender of registration for cancellation

The table below presents the data as entered.

| Input Field | Entered |
|--|--|
| SERIAL NUMBER | 85623894 |
| REGISTRATION NUMBER | 4274836 |
| FORM TEXT | |
| The registration is being surrendered in its entirety. | |
| SIGNATURE SECTION | |
| SUBMISSION SIGNATURE | /michael n de biase/ |
| SIGNATORY'S NAME | Michael N. De Biase, Esq. |
| SIGNATORY'S POSITION | Attorney of record, Florida bar member |
| DATE SIGNED | 07/01/2014 |
| AUTHORIZED SIGNATORY | YES |
| FILING INFORMATION SECTION | |
| TEAS STAMP | USPTO/S7S-65.34.183.9-201 40701152910315962-4274836 -20140701152625060707-N/A -N/A-20140701152625060707 |

Surrender of registration for cancellation

To the Commissioner for Trademarks:

The following is submitted for registration number. **4274836** :

FORM INFORMATION

The registration is being surrendered in its entirety.

SIGNATURE(S)

Submission Signature

Signature: /michael n de biase/ Date: 07/01/2014

Signatory's Name: Michael N. De Biase, Esq.

Signatory's Position: Attorney of record, Florida bar member

Signatory's Phone Number: 954-985-4145

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possession; and is currently the trademark owner's attorney or an associate thereof.

Serial Number: 85623894

Internet Transmission Date:

TEAS Stamp: USPTO/S7S-65.34.183.9-201407011529103159

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