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

Proceeding	91227260
Party	Plaintiff The Travelers Indemnity Company
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Date	06/20/2016
Attachments	Motion to Strike MSJ.pdf(41579 bytes )

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

<p>THE TRAVELERS INDEMNITY COMPANY,</p> <p style="text-align: center;">Opposer</p> <p style="text-align: center;">v.</p> <p>WALLACE MAYER DE ROTHSMAN,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.: 91227260</p> <p>Mark:</p>  <p>Serial No. 86754033 Filed: September 11, 2015</p>
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**OPPOSER’S COMBINED MOTION TO STRIKE APPLICANT’S  
UNTIMELY MOTION FOR SUMMARY JUDGMENT,  
& MOTION FOR DEFAULT JUDGMENT**

Applicant, Wallace Mayer De Rothsman (“Applicant”), filed “ APPLICANT’S MOTION FOR SUMMARY JUDGMENT ON OPPOSER’S CLAIMS OF DILUTION AND LIKELIHOOD OF CONFUSION” (“Applicant’s Motion”) on May 19, 2016.

Trademark Rule 2.127(e)(1), 37 CFR § 2.127(e)(1), provides that “a party may not file a motion for summary judgment until the party has made its initial disclosures.” The requirement that a party must serve initial disclosures prior to or concurrently with the filing of a motion for summary judgment cannot be waived. *Qualcomm Inc. v. FLO Corp.*, 93 USPQ2d 1768, 1769-70 (TTAB 2010).

In this case, the parties have not yet held their required discovery/settlement conference (6/15/16 conference deadline), neither party has served initial disclosures

(7/15/16 initial disclosure deadline), and neither party has conducted any discovery.

Accordingly, Applicant's Motion should be summarily denied as premature and untimely under 37 CFR § 2.127(e)(1).

Moreover, in his rush to file an untimely motion for summary judgment, Applicant failed to file an Answer in this case on or before the May 16, 2016 deadline. The certificate of service on Applicant's Motion was dated May 16, 2016, but it was not filed until May 19, 2016. Thus, the Board should enter default judgment against Applicant for failure to file an Answer under Fed. R. Civ. P. 55(b).

Finally, Opposer respectfully requests that the Board suspend all proceedings pending disposition of the pending motions. Upon resumption of proceedings (if any), Opposer respectfully requests that the Board reset all dates.

Respectfully Submitted,

Dated: June 20, 2016

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**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing Opposer's Combined Motion to Strike Applicant's Untimely Motion for Summary Judgment, & Motion for Default Judgment was served by first-class mail, postage prepaid on this 20th day of June 2016, upon Applicant at the following address of record:

Wallace Meyer de Rothsman  
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/Larry White/  
Larry White  
Litigation Case Manager