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Filing date: **09/16/2016**

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

Proceeding	91227888
Party	Plaintiff Cackalacky, Inc.
Correspondence Address	J DICKSON PHILLIPS ROBINSON BRADSHAW & HINSON PA 1450 RALEIGH ROAD SUITE 100 CHAPEL HILL, NC 27517 UNITED STATES dphillips@rbh.com
Submission	Motion for Discovery Sanctions
Filer's Name	J. Dickson Phillips, III
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Signature	/J. Dickson Phillips, III/
Date	09/16/2016
Attachments	Request for Default Judgment.pdf(11022 bytes)

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

In the Matter of U.S. Application Serial No. 86748917

Mark: CACKALAK

Filing Date: September 6, 2015

Cackalacky, Inc., a North Carolina corporation,

Opposer,

v.

Terrell T. Rhodes, an individual,

Applicant.

Opposition No.: 91227888

REQUEST FOR ENTRY OF DEFAULT JUDGMENT

In this opposition proceeding, Applicant rebuffed Opposer's attorney's attempt to conduct the mandatory discovery conference prior to the deadline therefor. Opposer's attorney then requested Board assistance in convening the conference. The Interlocutory Attorney set a date, time and call-in method for the conference and confirmed with Applicant his receipt of the call-in information. Opposer's counsel and corporate officers called in to participate in the conference with the Interlocutory Attorney but Applicant did not.

Thereupon, by Order mailed August 15, 2016, the Interlocutory Attorney allowed Applicant thirty days, or until September 14, 2016, to show cause why default judgment should not be entered against him for failure to participate in the mandatory discovery conference under Fed. R. Civ. P. 26(f). Applicant failed to file any submission by the deadline of September 14.

On September 15, 2016, Applicant did file a “Motion to Dismiss”. The Motion to Dismiss is not responsive to the Interlocutory Attorney’s Order to Show Cause and fails to offer any facts or argument to show good cause for his failure and refusal to participate in the mandatory discovery conference. In addition, the motion filed by Applicant is clearly dismissible on grounds, among others, that it raises matters not resolvable on a 12(b) motion. Therefore, the motion presents no justification, irrespective of its untimeliness, for avoiding the mandatory discovery conference.

Due to Applicant’s repeated failure and refusal to participate in the mandatory discovery conference, Opposer respectfully requests that default judgment be entered against Applicant.

This 16th day of September, 2016.

Respectfully submitted,

/J. Dickson Phillips, III/

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Request for Entry of Default Judgment was served on Applicant by mailing a copy by first class mail, postage prepaid, to the following address of record with the Trademark Trial and Appeal Board:

Terrell T. Rhodes
P.O. Box 292520
Columbia, SOUTH CAROLINA 29229

Dated: September 16, 2016

/J. Dickson Phillips, III/

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