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

Proceeding	91229667
Party	Plaintiff Cybernet Entertainment LLC
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Submission	Motion for Default Judgment
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CYBERNET ENTERTAINMENT, LLC

Opposer;

v.

MICHAEL R.RADCLIFF

Applicant.

Opposition No.	91229667
In re App. No:	86700538
For the Mark:	KINK STARTER
App. Filed:	July 22, 2015
Applicant:	MICHAEL R.RADCLIFF
Published:	July 26, 2016

Opposer: Cybernet Entertainment LLC
799 Castro Street
San Francisco CA 94114

Applicant: Michael R.Radcliff
P.O. Box 70
Elka Park, New York, 12427

Represented by:
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OPPOSER'S MOTION FOR THE ENTRY OF DEFAULT JUDGMENT

Procedural And Factual History

The above opposition was filed by Cybernet Entertainment LLC (Opposer) on August 23, 2016. See TTAB filing 1.

On that same date, the Trademark Trial and Appeal Board ("TTAB") issued an order setting the deadline to file an answer as October 2, 2016. See TTAB filing #2, Order dated 8/23/16.

No answer was filed. On , and Although an answer was to be filed on October 2, 2016, no answer has yet to be filed by Applicant in this proceeding.

On October 12, 2016, a Notice of Default was filed by the TTAB in this case, providing:

An answer to the notice of opposition was due in this proceeding on October 02, 2016. Inasmuch as it appears that no answer has been filed, nor has Applicant filed a motion to extend the time to file an answer, notice of default is hereby entered against Applicant pursuant to Fed. R. Civ. P. 55(a).1

The October 12, 2016 TTAB Order provided a thirty-day period for Applicant to show good cause why judgment should not be entered in the case.

Applicant failed to respond to the order to show good cause why judgment should not be entered by the deadline of November 12, 2016.

On December 2, 2016, Applicant moved to have the default withdrawn, and requested time to appear and answer by January 15, 2017. Applicant failed to properly serve the request on Opposer.

On March 2, 2017, the TTAB served oppose with the Applicant's December 2 motion, ordered that Applicant properly serve all future filings, and allowed Opposer twenty days to file a response to the motion for relief.

Opposer filed an opposition on March 2, 2017, and on the basis that the request for relief from default failed to justify the relief requested, Opposer requested judgment be entered against Applicant and in Opposer's favor, based on Applicant's failure to timely respond to the opposition.

On May 18, 2017, the TTAB issued an order, wherein it agreed that Applicant failed to show good cause for discharging the notice of default. And it denied Applicant's motion to discharge the notice of default.

The TTAB extended the time for Applicant to file an answer until June 9, 2017, providing that *"failing which, because the notice of default has not been discharged, default judgment may be entered against Applicant."* The TTAB explained that no further extensions of time to file an answer will be allowed without the written consent of Opposer.

Applicant has again failed to file an answer despite the final extension passing. While Opposer remains sympathetic to the health issues facing opposing counsel, Opposer will not consent to additional extensions of time for Applicant to file an answer.

Argument

Pursuant to the provisions of Rule 55, Federal Rules of Civil Procedure, this Board is empowered

to and should enter a default judgment against the Applicant granting the relief requested in the Opposer's opposition. This Board has already determined that the Applicant will not be granted another extension of time to answer without the consent of Opposer, and such consent will not be granted. Thus, judgment should be entered in favor of Opposer and against Applicant in this matter.

Conclusion

Accordingly, Opposer requests judgment be entered against Applicant and the opposition proceedings be considered final and in favor of Opposer and against Applicant.

Dated: June 16, 2017

AUSTIN LAW GROUP

By: /Julien Swanson/
JULIEN SWANSON
Attorney for CYBERNET
ENTERTAINMENT LLC

CERTIFICATE OF MAILING

I hereby certify that on June 16, 2017, the following OPPOSER'S MOTION FOR THE ENTRY OF DEFAULT JUDGMENT for Application Serial No: 86700538 is being deposited in the United States Postal Service with sufficient postage as first class mail, using normal business practices, in an envelope addressed to:

RICHARD M. BLANK
Richard Mark Blank Esquire
19 Ledgewood Cmns
Millwood, New York, 10546-1026

Executed this 16TH day of June, 2017, at San Francisco, California.

By: /



Julien Swanson