

ESTTA Tracking number: **ESTTA64724**

Filing date: **02/02/2006**

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

Proceeding	92045238
Party	Plaintiff Rexam Closures and Containers, Inc. Rexam Closures and Containers, Inc. Rexam Closures and Containers, Inc. 3245 Kansas Road Evansville, IN 47711 UNITED STATES
Correspondence Address	Julie Ann Gregory and Brian P. McGraw Middleton Reutlinger 2500 Brown & Williamson Tower Louisville, KY 40202 UNITED STATES bmcgraw@midtreut.com
Submission	Motion for Default Judgment
Filer's Name	Brian P. McGraw
Filer's e-mail	bmcgraw@midtreut.com
Signature	/Brian McGraw/
Date	02/02/2006
Attachments	FINAL - MOTION for Default Judgment by Petitioner.pdf (7 pages)

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

In the Matter of U.S. Registration No. 2,827,685

Mark: SNAPLOC

Registration Date: March 30, 2004

REXAM CLOSURES)
AND CONTAINERS INC.)

Petitioner)

v.)

Cancellation No. 92045238

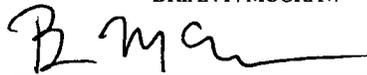
BERRY PLASTICS CORPORATION.)

Registrant)

CERTIFICATE OF TRANSMISSION

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING TRANSMITTED BY ELECTRONIC MAIL TO THE TRADEMARK TRIAL AND APPEAL BOARD, UNITED STATES PATENT AND TRADEMARK OFFICE ON FEBRUARY 2, 2006.

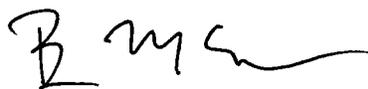
BRIAN P. MCGRAW



**MOTION FOR DEFAULT JUDGMENT
PURSUANT TO 37 C.F.R. § 2.114 AND T.B.M.P. § 312.01**

Petitioner, Rexam Closures and Containers Inc. ("Rexam" or "Petitioner"), pursuant to 37 C.F.R. § 2.114 and the Trademark Trial and Appeal Board Manual of Procedure ("T.B.M.P.") § 312.01, by counsel, hereby moves for default judgment against Respondent, Berry Plastics Corporation ("Berry Plastics" or "Respondent"), due to Applicant's failure to file an answer to the Petition of Cancellation within the time set by the Board. A supporting memorandum and tendered order are attached hereto.

Respectfully submitted,



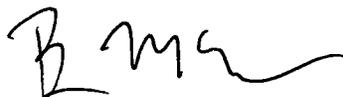
Julie Ann Gregory
Brian P. McGraw
MIDDLETON REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
Tel: (502) 584-1135
Fax: (502) 561-0442
jgregory@middreut.com and/or
bmcgraw@middreut.com.

COUNSEL FOR PETITIONER
REXAM CLOSURES & CONTAINERS
INC.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Motion for Default Judgment, with supporting memorandum and tendered order, was served this 2 day of February, 2006, by first-class mail, postage prepaid, addressed to:

BERRY PLASTICS CORPORATION
c/o Legal Department
101 Oakley Street P.O. Box 959
Evansville, IN 47706-0959



Counsel for Petitioner
Rexam Closures and Containers Inc.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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REXAM CLOSURES)	
AND CONTAINERS INC.)	
)	
Petitioner)	
)	
v.)	Cancellation No. 92045238
)	
BERRY PLASTICS CORPORATION.)	
)	
Registrant)	

**MEMORANDUM IN SUPPORT OF PETITIONER’S MOTION FOR DEFAULT
JUDGMENT PURSUANT TO 37 C.F.R. § 2.114 AND T.B.M.P. § 312.01**

Petitioner, Rexam Closures and Containers Inc. (“Rexam” or “Petitioner”), by counsel, submits this memorandum in support of its motion for default judgment pursuant to 37 C.F.R. § 2.114 and the Trademark Trial and Appeal Board Manual of Procedure (“T.B.M.P.”) § 312.01, due to Respondent’s, Berry Plastics Corporation (“Berry Plastics” or “Respondent”), failure to timely file an answer to the Petition for Cancellation.

THE BASIS FOR DEFAULT JUDGMENT

After a Petition for Cancellation has been filed, the Trademark Trial and Appeal Board (“the Board”) notifies the Respondent of the time within which an answer must be filed. *See* 37 C.F.R. § 2.114; T.B.M.P. §312.01. If the Respondent does not file an answer, or a request for an extension of time to answer, within the time set by the Board,

the opposition may be decided as in case of default. See 37 C.F.R. § 2.114; T.B.M.P. §312.01.

Petitioner filed its Petition for Cancellation on December 7, 2005. On December 14, 2005, the Board mailed notice to Respondent of the filing of the Petition for Cancellation and of the due date for filing an answer forty days after the mailing date of the notice (January 23, 2006).

As of January 30, 2006, Respondent has not filed and served an Answer to the Petition for Cancellation or a request for an extension of time to answer the Petition for Cancellation.

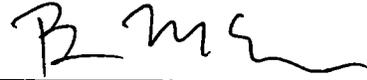
Accordingly, the Board should conclude that the Respondent has no intention of responding to Petitioner's Petition for Cancellation, and has no intention of participating in this cancellation proceeding related to the mark SNAPLOC, Reg. No. 2,827,685.

CONCLUSION

It is evident that Respondent has no intention of participating in this cancellation proceeding or of defending its registration. Accordingly, the Board should enter judgment against the Respondent, sustain Petitioner's Petition for Cancellation, and cancel the registration for the mark SNAPLOC, Reg. No. 2,827,685, which action is now respectfully solicited.

A tendered order entering default judgment against Respondent is attached.

Respectfully submitted,



Julie Ann Gregory

Brian P. McGraw

MIDDLETON REUTLINGER

2500 Brown & Williamson Tower

Louisville, Kentucky 40202

Tel: (502) 584-1135

Fax: (502) 561-0442

jgregory@midtreut.com and/or

bmcgraw@midtreut.com.

COUNSEL FOR PETITIONER
REXAM CLOSURES & CONTAINERS
INC.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Registration Date: March 30, 2004

REXAM CLOSURES)	
AND CONTAINERS INC.)	
)	
Petitioner)	
)	
v.)	Cancellation No. 92045238
)	
BERRY PLASTICS CORPORATION.)	
)	
Registrant)	

DEFAULT JUDGMENT

Petitioner, Rexam Closures and Containers Inc., having moved pursuant to 37 C.F.R. § 2.114 and T.B.M.P. §312.01 for the entry of default judgment due to Respondent's failure to timely file an answer to the Petition for Cancellation, and the Board having considered the motion and the record, and being otherwise sufficiently advised,

IT IS HEREBY ORDERED:

1. That the Petitioner's Motion is GRANTED;
2. That judgment is entered in favor of Petitioner on Petitioner's Petition for Cancellation;
3. That the cancellation is hereby sustained;

4. That the registration for the mark SNAPLOC, Registration Number 2,827,685, is hereby cancelled.

So Ordered this _____ day of _____, 2006.

TRADEMARK TRIAL AND APPEAL BOARD

Tendered by:

Julie Ann Gregory
Brian P. McGraw
MIDDLETON REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
Tel: (502) 584-1135
Fax: (502) 561-0442
jgregory@midtreut.com and/or
bmcgraw@midtreut.com.

COUNSEL FOR PETITIONER
REXAM CLOSURES & CONTAINERS INC.