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

Proceeding	92049727
Party	Plaintiff Jeffrey Kaplan
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Submission	Motion for Default Judgment
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Date	09/09/2008
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Jeffrey Kaplan
POB 11106
Ft. Lauderdale, Fl. 33339,

Cancellation No: 92049727
Registration No: 3,008,547

Petitioner

v.

Diane Kroll and Thomas Berbas Partnership, The
Diane Kroll and Thomas Berbas, Both US Citizens,
Partnership Ireland 22 Riverside Watery Lane Dublin
Ireland

Registrant

PETITIONER'S MOTION FOR DEFAULT JUDGMENT

Pursuant to 37 C.F.R. Section 2.114(a), Jeffrey Kaplan ("Petitioner") hereby moves for entry of default judgment on its Petition for Cancellation, filed on July 30th 2008. Diane Kroll and Thomas Berbas Partnership ("Registrant") has failed to file a timely answer. Accordingly, default judgment should be entered against Registrant and Registrant's trademark registration no. 3,008,537 for "SPARKLING COW" should be cancelled.

I. Argument

Trademark Rule 2.114(a) provides that "(i) if no answer is filed within the time set, the petition may be decided as in case of default". 37 CFR Section 2.114(a). A motion for default judgment for failure to answer may be filed by Petitioner, if Registrant fails to file a timely answer. See TMBP 508.

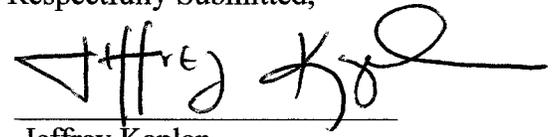
Petitioner filed a Petition for Cancellation on July 30th 2008, based on Registrant's non-use/abandonment of the mark SPARKLING COW. On July 30th 2008, the Petitioner mailed a copy of its Petition for Cancellation via U.S. First Class Mail to Registrant and Petitioner signed a Certificate of Service. On July 30th 2008, the Board mailed a Notice of Cancellation Proceeding and Trial Dates to Registrant, setting September 8th 2008, as the Deadline for filing an Answer (forty days from mailing date if the said Notices)

Registrant has been delinquent in filing an Answer in this Cancellation proceeding. Pursuant to this Board's Rules of Procedure, Petitioner moves the Board to enter a default judgment against Registrant and cancel the subject Registration.

II. Conclusion

The Registrant has failed to file a timely Answer to Petitioner's Petition for Cancellation of Registration No. 3,008,547 ("SPARKLING COW"). Judgment should be entered for Petitioner and the Petition for Cancellation should be granted.

Respectfully Submitted,



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September 9th 2008