

ESTTA Tracking number: **ESTTA352726**

Filing date: **06/14/2010**

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

Proceeding	92052388
Party	Plaintiff Pac-Dent International, Inc.
Correspondence Address	PHILIP H. GOTTFRIED AMSTER, ROTHSTEIN & EBENSTEIN LLP 90 PARK AVENUE NEW YORK, NY 10016 UNITED STATES ptodocket@arelaw.com
Submission	Motion for Default Judgment
Filer's Name	Holly Pekowsky
Filer's e-mail	ptodocket@arelaw.com
Signature	/Holly Pekowsky/
Date	06/14/2010
Attachments	Motion for Default Judgment - 388 Cancellation.pdf (3 pages)(96247 bytes) Declaration of Holly Pekowsky re Motion for Default Judgment - 388 cancellation.pdf (4 pages)(140463 bytes)

Pekowsky Decl.¹, Pars. 3-4 and Ex. A. Registrant did not request, nor did Petitioner grant, any extension of time to Answer. Pekowsky Decl., Par. 3.

III. LEGAL ARGUMENT

Pursuant to 37 C.F.R. § 2.114(a), “If no answer is filed within the time set, the cancellation may be decided as in case of default.” Accordingly, since, as indicated above, Registrant has failed to submit an Answer, it is respectfully submitted that a default judgment be entered against Registrant in the instant Cancellation.

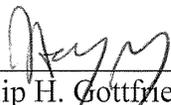
IV. CONCLUSION

For the reasons stated above, Petitioner’s Motion for a default judgment against Registrant should be granted.

Respectfully submitted,

AMSTER, ROTHSTEIN & EBENSTEIN LLP
Attorneys for Petitioner
90 Park Avenue
New York, New York 10016
(212) 336-8000 (telephone)
(212) 336-8001 (Facsimile)

Dated: June 17, 2010
New York, New York

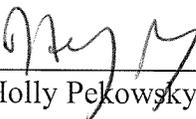
By: 
Philip H. Gottfried
Holly Pekowsky

¹ “Pekowsky Decl.” refers to the Declaration of Holly Pekowsky, submitted herewith.

CERTIFICATE OF SERVICE

Holly Pekowsky, the undersigned attorney, hereby certifies that she is one of the attorneys for Petitioner in the captioned action, and that on the date which appears below she served a copy of the annexed MEMORANDUM OF LAW IN SUPPORT OF PETITIONER PAC-DENT INTERNATIONAL, INC.'S MOTION FOR A DEFAULT JUDGMENT AGAINST REGISTRANT SULZER MIXPAC AG by causing a copy thereof to be served on Registrant by Federal Express, postage pre-paid, as follows:

Michael T. Murphy, Esq.
Christopher S. Adkins, Esq.
K&L Gates LLP
1601 K Street N.W.
Washington, D.C. 20006



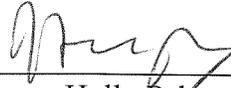
Holly Pekowsky

Dated: June 14, 2010
New York, New York

CERTIFICATE OF SERVICE

Holly Pekowsky, the undersigned attorney, hereby certifies that she is one of the attorneys for Petitioner in the captioned action, and that on the date which appears below she served a copy of the annexed DECLARATION OF HOLLY PEKOWSKY IN SUPPORT OF MOTION FOR A DEFAULT JUDGMENT by causing a copy thereof to be served on Registrant by Federal Express, postage pre-paid, as follows:

Michael T. Murphy, Esq.
Christopher S. Adkins, Esq.
K&L Gates LLP
1601 K Street N.W.
Washington, D.C. 20006



Holly Pekowsky

Dated: June 14, 2010
New York, New York

EXHIBIT A



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Cancellation

Number: 92052388**Filing Date:** 04/29/2010**Status:** Pending**Status Date:** 04/29/2010**Interlocutory Attorney:** FRANCES S WOLFSON

Defendant

Name: Sulzer Mixpac AG**Correspondence:** MICHAEL T. MURPHY, ESQ.
K&L GATES LLP
1601 K STREET NW
WASHINGTON, DC 20006-1600
UNITED STATES
chicago.trademarks@klgates.com**Serial #:** 77623884 Application File**Registration #:** 3762233**Application Status:** Cancellation Pending

Plaintiff

Name: Pac-Dent International, Inc.**Correspondence:** PHILIP H. GOTTFRIED
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016
UNITED STATES
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Prosecution History

#	Date	History Text	Due Date
4	06/07/2010	D'S MOT TO SUSP PEND DISP CIV ACTION	
3	04/29/2010	PENDING, INSTITUTED	
2	04/29/2010	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	06/08/2010
1	04/29/2010	FILED AND FEE	

Results as of 06/14/2010 04:30 PM

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