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

Proceeding	92054820
Party	Plaintiff Spirited Sorbet
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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SPIRITED SORBET, LLC

Petitioner,

v.

KARMA 4 U INC.,

Registrant.

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Mark: KARMA ICE CREAM AND  
SORBET

Reg. No.: 3,736,169

Reg. Date: January 12,2010

Cancellation No.: 92054820

**PETITIONER'S OBJECTION TO REGISTRANT'S REQUEST FOR AN EXTENSION  
OF TIME TO ANSWER PETITIONER'S PETITION TO CANCEL AND REQUEST  
FOR A DEFAULT JUDGMENT**

Petitioner Spirited Sorbet, LLC, a Colorado limited liability company ("Petitioner") hereby objects to Registrant Karma 4 U Inc.'s request for an additional 60 days in which to respond to Petitioner's Petition to Cancel (as amended, the "Petition"). Petitioner also moves the Trademark Trial and Appeal Board (the "Board") for a default judgment against Registrant and respectfully requests cancellation of U.S. Registration No. 3,736,169 (the "'169 Registration").

In support, Petitioner states:

**Facts**

1. Petitioner is the owner of the valid and subsisting U.S. Trademark Application No. 85/214,507 for FRUIT KARMA (the '507 Application). The '507 Application has been suspended since December 7, 2011 pending the outcome of this proceeding, which was instituted on November 15, 2011.

2. Prior to April 16, 2012, Registrant had requested four separate extensions of time, all of which the Board granted.

3. On April 16, 2012, Petitioner amended the Petition to include a fraud claim, and the Board reset the trial dates by an order dated June 19, 2012. In that order, the Board allowed Registrant until July 19, 2012 to answer the Petition.

4. Registrant did not answer or otherwise respond to the Petition on July 19, 2012.

5. It was not until July 23, 2012—four (4) days after the answer date—that Registrant requested yet another extension of time in which to answer the Petition.<sup>1</sup>

### **ARGUMENT**

6. Registrant failed to timely respond to the Petition by July 19, 2012. Consequently, pursuant to 37 CFR § 2.114(a) and TBMP § 312.01, Petitioner requests the Board to enter a default judgment and cancel the '169 Registration. *See DeLorme Publishing Co. v. Eartha's Inc.*, 60 USPQ2d 122, 1224 (TTAB 2000) (opposer's motion for default judgment granted where applicant failed to file a timely answer and could not establish good cause for the delay). Petitioner notes that while Registrant did file a request for an extension of time after the deadline, such request is virtually a carbon copy of the four (4) requests that preceded it.

7. In the alternative, Petitioner requests that the Board deny Registrant's fourth request for an extension of time and order Registrant to respond to the Petition within ten (10) days of its order.

8. The prejudice to the Petitioner thus far has been significant. Its own application—the '507 Application—has been suspended pending the outcome of this proceeding since December 7, 2011. Now, Registrant seeks an additional sixty days in which to respond to the Petition. Petitioner has thus far been unable to brand its product in the manner it desires due to the multiple delays in this proceeding, and it merely wishes to move forward with this

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<sup>1</sup> Petitioner notes that it never received such request by mail (if it was sent at all).



**PROOF OF SERVICE**

I certify that on August 15, 2012, a copy of the foregoing was served via first class US Mail as follows:

karma 4 u inc.  
2875 Greenrock Trail  
Atlanta, GA 30340

/Louis T. Perry  
Louis T. Perry