

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

NOVELL, INC.

Opposer,

v.

ALS SCAN, INC.,

Applicant.

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Opposition No. 116,910

U.S. Patent & TMO/TM Mail Rcpt. Dt. #57



12-18-2001

MOTION FOR DEFAULT JUDGMENT

Pursuant to 37 C.F.R. § 2.114(a) and Fed.R.Civ.P. 55, Opposer moves for judgment by default in the above-captioned proceeding. In support of this Motion, Opposer sets forth the following facts and arguments:

1. Opposer filed this proceeding opposing registration of application Serial No. 75/566,054 for the mark "ALS NETWARE" on February 8, 2000.
2. Patent and Trademark Office records reflect that on February 17, 2000, the Board notified Applicant that an answer was due in the above-captioned proceeding, forty days after the mailing date thereof, which was March 28, 2000, although Opposer never received a copy of the notice.
3. Since expiration of the time to file an answer herein, Applicant's counsel has neither filed an answer nor filed a motion to extend the time in which to answer. The proceeding has never been suspended.
4. Accordingly, Applicant is in default and, pursuant to 37 C.F.R. § 2.114, judgment should be entered in favor of Opposer and the Opposition sustained.

5. Opposer also notes that on June 30, 2000, Opposer filed a Motion for Default Judgment in the above-captioned proceeding, but with a clerical error in the Opposition Number (Exhibit A).

Respectfully submitted,

NOVELL, INC.

Date: Dec. 17, 2001

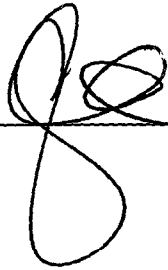
By Herbert J. Hammond

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Attorneys for Opposer
NOVELL, INC.

CERTIFICATE OF SERVICE

This is to certify that on this 18 day of December, 2001, the foregoing "Motion for Default Judgment" was served on Applicant by mailing a true and correct copy by United States mail, first class, postage prepaid to Morton J. Rosenberg, Rosenberg Klein & Bilker, 3444 Ellicott Center Drive, Suite 105, Ellicott City, MD 21043, attorney for Applicant.



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