TTAB

ATTORNEY DOCKET NO: EQUUS-107M
MARK: EQUUS WHEELS

Certificate of Mailing

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Box TTAB – No Fee
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

on December 12, 2005

(Signature)

Kimberly Carlsen
(Typed name of person signing certificate)

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

1. Certificate of Mailing;
2. Transmittal (in triplicate);
3. Opposer's Motion for Entry of Default Judgment Under Trademark Rule 2.120(g)(1);
4. Proof of Service to Jeffrey G. Jacobs (in triplicate); and
5. Return Postcard.

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December 12, 2005

Box TTAB – No Fee
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

RE: Innova Electronics Corporation v. Lyon's Wheel Industrial Corporation
Serial No.: 76/499,642
Our Reference: EQUUS-107M
For the Mark: EQUUS WHEELS

Dear Sir/Madam:

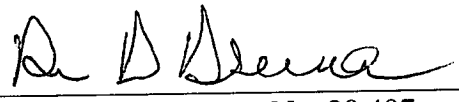
Enclosed for filing are the following:

1. Certificate of Mailing;
2. Transmittal (in triplicate);
3. Opposer's Motion for Entry of Default Judgment Under Trademark Rule 2.120(g)(1);
4. Proof of Service to Jeffrey G. Jacobs (in triplicate); and
5. Return Postcard.

Please charge any additional cost to our Deposit Account Number 19-4330. This letter is enclosed herewith in triplicate.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

By: 

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75 Enterprise, Suite 250
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(949)855-1246
Counsel for Opposer

Customer No.: 007663

* PATENT AGENT

Case: EQUUS-107M
Trademark Application

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN RE SERIAL NO. 76/499,642

INNOVA ELECTRONICS CORPORATION Opposer, vs. LION'S WHEEL INDUSTRIAL CORPORATION Applicant.	)	Opposition No.: 91159302

MOTION FOR ENTRY OF DEFAULT JUDGMENT UNDER TRADEMARK RULE 2.120(g)(1)

Box TTAB – NO FEE
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Opposer, Innova Electronics Corporation herby brings this Motion for Entry of Default Judgment. As a basis for this motion petitioner advises as follows.

On October 20, 2004 Opposer brought a Motion to Compel Discovery Responses consisting of Opposer's Interrogatory No. 6 and Document Requests No. 10, 11 and 18-20. Copies of the interrogatories and document requests are attached hereto as Exhibits 1 and 2 respectively.

Applicant filed no opposition or other response to the Motion to Compel.

On September 17, 2005 the Trademark Trial and Appeal Board (TTAB) issued an order granting Opposer's Motion to Compel, specifying as follows:

> Applicant is allowed until twenty days from the mailing date stamped on this order to provide further responses, as requested in opposer's motion to compel, to opposer's interrogatory no. 6 and document requests 10, 11 and 18-20.
>
> Should applicant fail to comply with this order in the time period allowed above, the Board will entertain a motion for sanctions by opposer.

To date, no further responses to Opposer's Interrogatory No. 6 and Document Requests No. 10, 11 and 18-20 have been received from Applicant.

As a consequence of the foregoing, Opposer has been denied properly requested information and documents necessary to an ordered prosecution of this opposition proceeding. Opposer has diligently sought discovery, the substance of which is appropriate to this proceeding. However, Applicant has illustrated that it is disinterested in advancing its position[1], has ignored its discovery obligations and ignored the substance of the TTAB's prior Order. In view of the foregoing Petitioner requests entry of terminating sanctions in the form of a default judgment denying registration of the subject application in accordance with Trademark Rule 2.120(g)(1).

[1] Fort Howard Paper Company v. Kimberly-Clark Corporation, 216 USPQ 617

Should any additional fees be necessary, please charge Deposit Account No. 19-4330.

Respectfully submitted,

STETINA BRUNDA GARRED & BRUCKER

Dated: December 12, 2005 By: _____

Bruce B. Brunda, Reg. No. 28,497
75 Enterprise, Suite 250
Aliso Viejo, CA 92656
(949) 855-1246
Counsel for Opposer

T:\Client Documents\EQUUS\107m\MotionForDefault.doc

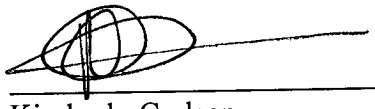
PROOF OF SERVICE

State of California)
) ss.
County of Orange)

I am over the age of 18 and not a party to the within action; my business address is STETINA BRUNDA GARRED & BRUCKER, 75 Enterprise, Suite 250, Aliso Viejo, California 92656. On **December 12, 2005**, a copy of the attached **MOTION FOR ENTRY OF DEFAULT JUDGMENT UNDER TRADEMARK RULE 2.120(G)(1)** was served on all interested parties in this action by U.S. Mail, postage prepaid, at the address as follows:

Jeffrey G. Jacobs
15770 Laguna Canyon Road #100
Irvine, CA 92618

Executed on **December 12, 2005**, at Aliso Viejo, California. I declare under penalty of perjury that the above is true and correct. I declare that I am employed in the office of STETINA BRUNDA GARRED & BRUCKER at whose direction service was made.



Kimberly Carlsen