

TTAB

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

*In the Matter of Application No. 76/520,372*  
Published: November 26, 2003  
Mark: TEMPER-PETIC



05-17-2004

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

TEMPUR WORLD, INC.,  
TEMPUR-PEDIC, INC., and  
DAN FOAM APS,

Opposers,

Opposition No. 91159393

v.

ROBERT McNAE,

Applicant.

Assistant Commissioner of Trademarks  
**Box TTAB NO FEE**  
2900 Crystal Drive  
Arlington, VA 22202

**MOTION FOR DEFAULT JUDGMENT**

Opposers, Tempur World, Inc., Tempur-Pedic, Inc., and Dan Foam ApS, hereby move, pursuant to Rule 2.114(a), for judgment by default on the ground that Robert McNae, Applicant, has not filed an answer or otherwise responded to the Notice of Opposition within the time set.

On January 26, 2004, Opposers filed a Notice of Opposition against Application No. 76/520,372 for the mark TEMPER-PETIC.

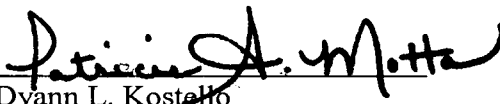
In an Order dated April 4, 2004, the Board granted Applicant's motion to extend time to file its Answer to the Notice of Opposition to April 20, 2004. As of May 13, 2004, Applicant has not filed an answer or otherwise responded, nor has Applicant requested an extension of time to answer and, thus, Applicant is in default.

Therefore, Opposer's motion should be granted and a default judgment entered abandoning Application No. 76/520,372.

Dated this 13<sup>th</sup> day of May, 2004.

Respectfully submitted,

**Michael Best & Friedrich LLP**  
Attorneys for Opposers

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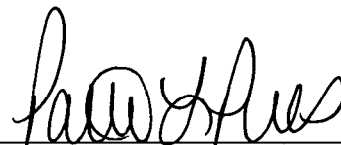
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Wm. A. R. R. R.

## CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, Attention: TTAB on this 13<sup>th</sup> day of May, 2004.



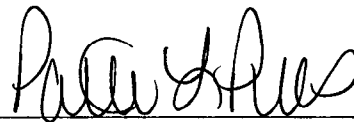
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Patti L. Pues

**CERTIFICATE OF SERVICE**

This is to certify that on May 13, 2004, I mailed a copy of the attached,  
Motion for Default Judgment, via first class, prepaid mail, to the Applicant's attorney:

Hugh D. Jaeger, P.A.  
1000 Superior Boulevard  
Suite 302  
Wayzata, MN 55391-1873



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Patti L. Pues