

TTAB

AKIN GUMP
STRAUSS HAUER & FELD LLP

Attorneys at Law

DANIEL MOFFETT
210.281.7155/fax: 210.224.2035
dmoffett@akingump.com

February 5, 2007

Box TTAB
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Re: *House of Blues Brands Corp. v. Andrea L. Tomlinson and Timothy e. Wardell*
Opposition No.: 91173983
Mark: PORN FOR PURITANS (AND FLAMING HEART DESIGN)
Attorney Docket No. 064163.0075

Dear Madam:

Enclosed please find the following for filing in the above-identified matter:

- Opposer's Motion for Default Judgment; and
- A return receipt acknowledgment postcard.

The Commissioner is hereby authorized to charge any deficiency or credit any overpayment in the fees indicated above to Deposit Account No. 01-0477.

Respectfully submitted,



Daniel Moffett

Enclosures

02-08-2007

U.S. Patent & TMOfc/TM Mail Rcpt Dt. #2:

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

HOUSE OF BLUES BRANDS CORP.	§	
	§	
Opposer,	§	Opposition No. 91173983
	§	
v.	§	Serial No. 78/776,531
	§	
ANDREA L. TOMLINSON and	§	Mark: PORN FOR PURITANS (AND
TIMOTHY E. WARDELL,	§	FLAMING HEART DESIGN)
	§	
Applicants.	§	

OPPOSER'S MOTION FOR DEFAULT JUDGMENT

Opposer submits this Motion for Default Judgment pursuant to 37 CFR § 2.106(a) and T.B.M.P. § 312.01. A default judgment is appropriate because Applicants have failed to serve Opposer with an answer or other responsive pleading within the time set by the Trademark Trial and Appeal Board.

The above-captioned opposition notice was filed on November 2, 2006. The Trademark Trial and Appeal Board mailed a notification of the opposition proceeding on November 16, 2006. The notification provided that Applicants' answer was due on or before December 26, 2006. Opposer has not been served with an answer or other responsive pleading, and upon information and belief, Applicants have not requested any extension of time in which to do so. Therefore, Applicants are in default.

Applicants' December 18, 2006 letter to the Board—docketed as "Defendant's Motion"—does not preclude entry of a default judgment. *See* Docket No. 4. In their letter, Applicants state that they are willing to amend their mark by "dropping the logo design" from the application. Such an amendment would be a material alteration of the proposed mark, and therefore, impermissible. *See* 37 CFR § 2.72(b). Furthermore, even if such an amendment were

permissible, Applicants' letter to the Board, which was never served on Opposer, is not an appropriate answer or response to Opposer's Notice of Opposition. See 37 CFR 2.106(b)(1) (providing required elements for an acceptable answer).

Accordingly, Opposer moves that a default judgment be entered against Applicants.

Date: 2/05/2007

Respectfully submitted,



Kirt S. O'Neill
Daniel Moffett
Akin, Gump, Strauss, Hauer & Feld, L.L.P.
P.O. Box 12870
San Antonio, TX 78212
Phone: (210) 281-7000
Fax: (210) 224-2035
Email: dmoffett@akingump.com

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class mail in an envelope addressed to: Box TTAB, Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451.

Name of Person Signing Certificate: Michele Patterson

Signature: Michele Patterson


Date of Mailing: 2/5/07

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via regular mail, postage prepaid to:

Andrea L. Tomlinson
5730 W. Hanover
Dallas, TX 75209

on this 5th day of February, 2007.



Daniel Moffett