

ESTTA Tracking number: **ESTTA121474**

Filing date: **01/25/2007**

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

Proceeding	91174366
Party	Plaintiff Foreign Threat Assessment Center, Inc. Foreign Threat Assessment Center, Inc. Foreign Threat Assessment Center, Inc. 14855 West 54th Avenue Golden, CO 80403-1217 UNITED STATES
Correspondence Address	Michele B. Fagin Sparks Willson Borges Brandt & Johnson, PC 24 S. Weber Street, Suite 400 Colorado Springs, CO 80903 UNITED STATES mfagin@sparkswillson.com
Submission	Motion for Default Judgment
Filer's Name	Michele B. Fagin
Filer's e-mail	mfagin@sparkswillson.com
Signature	/Michele B. Fagin/
Date	01/25/2007
Attachments	004 Motion with declaration and exhibits.pdf (11 pages)(317825 bytes)

3. Forty days from December 5, 2006 fell on January 14, 2007, which day was a Sunday and which was followed by a federal holiday on January 15, 2007 for Martin Luther King, Jr. Day. Applicant's Answer accordingly was due on January 16, 2007.

4. Neither Opposer nor its counsel have received an Answer from Applicant and according to the online records of the Board accessible via TTABVUE, no Answer has been filed as of the date of this Motion, and Applicant has not otherwise entered an appearance in this proceeding. See Fagin Declaration at ¶ 4.

5. Furthermore, neither Applicant nor any representative of Applicant has made any effort to contact counsel or the Opposer to request a stipulated extension of time to answer, nor has any motion been made to extend time to answer according to the online records of the Board accessible via TTABVUE. See Fagin Declaration at ¶ 5.

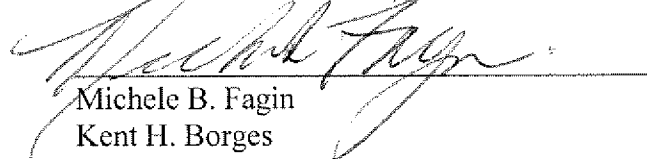
6. More than a week has passed since the January 16, 2007 deadline and Applicant is clearly in default.

7. Pursuant to 37 C.F.R. § 2.106(a), if no answer is filed within the time set, the opposition may be decided as in a case of default. The issue of whether default judgment should be entered against an applicant may be raised by motion by an opposer and the motion may serve as a substitute for the Board's issuance of a notice of default. See TBMP 508.

WHEREFORE, Opposer Foreign Threat Assessment Center, Inc. respectfully requests that the Board enter default judgment against Applicant with Prejudice that this Opposition be sustained and that registration of the mark in Application Serial No. 78/813,830 be denied.

Dated this 25th day of January, 2007.

Respectfully submitted,
SPARKS WILLSON BORGES
BRANDT & JOHNSON, P.C.



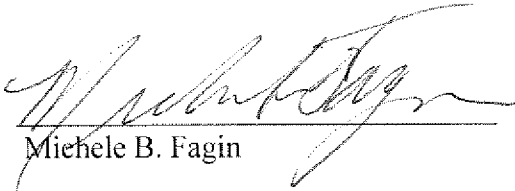
Michele B. Fagin
Kent H. Borges
Stephen A. Hess
24 South Weber Street, Suite 400
Colorado Springs, CO 80903
Telephone: (719) 634-5700
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Attorneys for Opposer Foreign Threat
Assessment Center, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the foregoing Opposer's Motion for Default Judgment with Declaration of Michele B. Fagin in Support of Opposer's Motion for Default Judgment were served upon the following by depositing same with the United States Postal Service, first class mail, postage prepaid, this 25th day of January, 2007 addressed to:

Valerie Vasiliev
137 Birch Ave.
Richmond Hill, Ontario L4C6C5
Canada


Michele B. Fagin

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

In the Matter of Application Serial No. 78/813,830
For the Mark SYSTEMA
Published in the Official Gazette of November 21, 2006

FOREIGN THREAT ASSESSMENT CENTER, INC.)	
)	
Opposer,)	
)	
v.)	Opposition No. 91174366
)	
VALERIE VASILIEV)	
)	
Applicant.)	

**DECLARATION OF MICHELE B. FAGIN IN SUPPORT OF
OPPOSER’S MOTION FOR DEFAULT JUDGMENT**

I, Michele B. Fagin, hereby declare and state that:

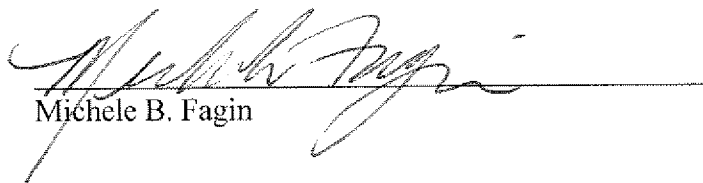
1. I am a shareholder of Sparks Willson Borges Brandt & Johnson, P.C. and lead counsel for Opposer Foreign Threat Assessment Center, Inc. in this proceeding. I submit this Declaration in Support of Opposer’s Motion for Default Judgment against Applicant Valerie Vasiliev (“Applicant”). The following facts are true of my own knowledge unless otherwise noted.
2. Opposer timely filed its Notice of Opposition to Application 78/813,830 for the mark SYSTEMA. A true copy of Opposer’s Notice of Opposition is attached hereto as Exhibit “A.”
3. On December 5, 2006, the Trademark Trial and Appeal Board issued a Scheduling Order giving the Applicant until January 16, 2007 to file an Answer to the Notice of Opposition. A true copy of the Scheduling Order is attached hereto as Exhibit “B.”

4. As of the date of this Declaration, neither Opposer nor Opposer's counsel have received an Answer to the Notice of Opposition and according to the online records of the Trademark Trial and Appeal Board accessible via TTABVUE, no Answer has been filed as of this date, and Applicant has not otherwise entered an appearance in this proceeding.

5. Furthermore, neither Opposer nor Opposer's counsel have been contacted by Applicant or a representative of Applicant to request a stipulated extension of time to answer, nor has any motion been made to extend time to answer according to the online records of the Board accessible via TTABVUE.

6. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct. I further declare that all statements made herein are made with the knowledge that the making of any willfully false statements and the like is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and may jeopardize the validity of the application or document or any registration resulting therefrom.

Dated: January 25th, 2007.


Michele B. Fagin

The grounds for opposition are as follows:

1. Since at least as early as January 1, 1994, Opposer and its predecessors in interest have used the word SYSTEMA in interstate commerce in the United States as the name for a particular form of martial arts and self defense.

2. Opposer and others use the word SYSTEMA as a generic term for that particular form of martial arts and self-defense. The word SYSTEMA is similar in its meaning and effect to “karate” or “tae kwon do”, in that it is the common word used in the trade when discussing this particular form of martial arts and self-defense.

3. Opposer currently uses the word SYSTEMA as a generic term to describe the type of martial arts and self-defense that Opposer offers and provides training and instruction.

4. Applicant is a Canadian citizen with a mailing address at 137 Birch Avenue, Richmond Hill, Ontario, Canada L4C6C5.

5. Applicant’s SYSTEMA mark is identical to the generic word SYSTEMA and contains no additional elements that would make it distinguishable from the generic word SYSTEMA.

6. The services for which Applicant seeks registration of the SYSTEMA mark are identical or substantially similar to the generic meaning of the word SYSTEMA as it is used in the trade and by Opposer.

7. On information and belief, Applicant’s intended adoption and use of the SYSTEMA mark has been with knowledge of the generic nature of the word as used by Opposer and others of the word SYSTEMA in the United States.

8. Granting a federal trademark registration to Applicant for her claimed

SYSTEMA mark as shown in Application Serial No. 78/813,830 would be contrary to 15 U.S.C. §2052(e)(1) and would deprive Opposer with the right to use the generic name for the services offered by Opposer, thereby causing irreparable damage and injury to Opposer.

9. Based on the foregoing, the registration of the SYSTEMA mark shown in Application Serial No. 78/813,830 on the Principal Register of the United States Patent and Trademark Office will cause injury and damage to Opposer.

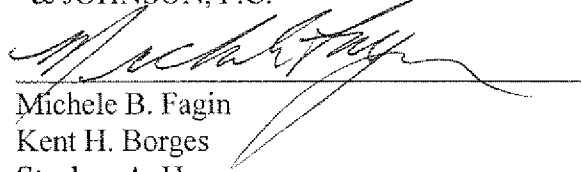
WHEREFORE, Opposer Foreign Threat Assessment Center, Inc. asks that its opposition to Application Serial No. 78/813,830 be sustained and that the registration of SYSTEMA set forth therein be refused.

Opposer Foreign Threat Assessment Center, Inc. hereby appoints Michele B. Fagin, Kent H. Borges and Stephen A. Hess of the firm of Sparks Willson Borges Brandt & Johnson, P.C., 24 South Weber Street, Suite 400, Colorado Springs, CO 80903, as attorneys with full power to represent Opposer Foreign Threat Assessment Center, Inc. in the above identified opposition, to prosecute this opposition, to transact all business in the United States Patent and Trademark Office and the United States Courts in connection with said opposition, and to sign their names to all documents which may hereafter be filed in connection with said opposition and to receive all official communications relating to same. Please direct all correspondence to the attention of Michele B. Fagin.

Dated: December 4, 2006.

Respectfully submitted,

SPARKS WILLSON BORGES BRANDT
& JOHNSON, P.C.

A handwritten signature in cursive script, appearing to read "Michele B. Fagin", is written over a horizontal line.

Michele B. Fagin

Kent H. Borges

Stephen A. Hess

24 South Weber Street, Suite 400

Colorado Springs, CO 80903

Telephone: (719) 634-5700

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Attorneys for Opposer Foreign Threat Assessment
Center, Inc.

RECEIVED

DEC 12 2006

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: December 5, 2006

Opposition No 91174366
Serial No. 78813830

VALERIE VASILIEV
137 BIRCH AVE.
RICHMOND HILL, ONTARIO L4C6C5
CANADA

Foreign Threat Assessment Center,
Inc.

v.

Vasiliev, Valerie

Michele B. Fagin
Sparks Willson Borges Brandt & Johnson, PC
24 S. Weber Street, Suite 400
Colorado Springs, CO 80903

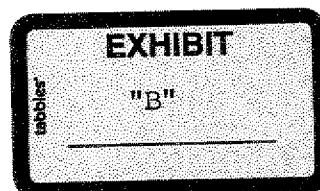
Tyrone Craven, Paralegal:

A notice of opposition to the registration sought in the above-identified application has been filed. A copy of the notice is attached.

ANSWER IS DUE FORTY DAYS after the mailing date hereof. (See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at www.uspto.gov/web/offices/dcom/ttab/.

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance with Trademark Rule 2.126 may not be given consideration or entered into the case file.



Discovery and testimony periods are set as follows:

Discovery period to open:	12/25/06
Discovery period to close:	6/23/07
30-day testimony period for party in position of plaintiff to close:	9/21/07
30-day testimony period for party in position of defendant to close:	11/20/07
15-day rebuttal testimony period for plaintiff to close:	1/4/08

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.