

ESTTA Tracking number: **ESTTA478633**

Filing date: **06/18/2012**

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

Proceeding	91194379
Party	Plaintiff Cornfields, Inc.
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Submission	Motion to Dismiss 2.132
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Date	06/18/2012
Attachments	motion for entry of judgment.20120618.pdf (4 pages)(133060 bytes)

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

In the matter of Trademark Application No. 77/780,921
For the Mark SKINNY MUNCH – Int. Class 30
Filed on July 14, 2009
Published on December 1, 2009

ADEENA WEISS, d/b/a
SKINNY MUNCH CORP.

Applicant/Counterclaim Plaintiff,

v.

CORNFIELDS, INC.,

Counterclaim Defendant.

Opposition No. 91194379

**COUNTERCLAIM DEFENDANT’S MOTION FOR INVOLUNTARY DISMISSAL
WITH PREJUDICE AND ENTRY OF JUDGMENT FOR PLAINTIFF’S FAILURE TO
PROSECUTE UNDER 37 C.F.R. § 2.132(a)**

Pursuant to Trademark Rule 2.132(a), 37 C.F.R. § 2.132(a), Counterclaim Defendant, Cornfields, Inc. (hereinafter “Cornfields”), by and through its counsel, hereby files this timely Motion for Involuntary Dismissal with Prejudice and Entry of Judgment based on Applicant/Counterclaim Plaintiff, Adeena Weiss d/b/a Skinny Munch Corp.’s (“Weiss”), failure to prosecute. In support of its motion, Defendant states as follows:

1. On July 6, 2011, Cornfields, as Opposer in Opposition 91194379, moved the Board to withdraw its opposition.
2. On July 26, 2011, the Board dismissed Cornfields’ Opposition with prejudice.
3. On August 25, 2011, Weiss filed a notice indicating to the Board that she wished to proceed on her Counterclaim.

4. Subsequently, the Board resumed the proceedings in Opposition 91194379 with respect to the Counterclaim and set forth a schedule, including the following relevant dates:
 - A. Defendant's [Weiss], as Plaintiff in the Counterclaim, Pretrial Disclosures due on March 25, 2012;
 - B. Defendant's [Weiss], as Plaintiff in the Counterclaim, 30-day Trial Period Ends on May 9, 2012.
 - C. Plaintiff's [Cornfields], as Defendant in the Counterclaim, Pretrial Disclosures due on May 24, 2012.
5. To date, Weiss has failed to take any testimony whatsoever in this proceeding and has offered no other evidence to support her Counterclaim.
6. On May 18, 2012, Cornfields filed its Motion for Involuntary Dismissal for Failure to Prosecute.
7. Pursuant to the T.B.M.P., § 534.02, 37 C.F.R. § 2.132(a), Ms. Weiss had "15 days from the date of service of the motion (20 days, if service of the motion was made by first-class mail)...in which to respond and show cause why judgment should not be rendered against [her]", thus making her deadline to show cause as June 7, 2012.
8. As of the date of this Motion, Ms. Weiss has filed no response with the Board to show cause why judgment should not be rendered against her.

WHEREFORE, Cornfields respectfully moves the Board to dismiss Weiss' Counterclaim with prejudice and enter judgment against Weiss for failure to prosecute pursuant to Trademark Rule 2.132(a), 37 C.F.R. § 2.132(a).

Dated: June 18, 2012

Respectfully submitted,

/s/ Richard B. Biagi

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Counsel for Cornfields, Inc.

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this paper is being electronically filed with the United States Patent and Trademark Office on this 18th of June, 2012.

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/s/ Richard B. Biagi

One of the Attorneys for Registrant/Defendant

CERTIFICATE OF SERVICE

The undersigned, one of the Registrant’s attorneys, hereby certifies that on June 18, 2012, he caused true and correct copies of the foregoing COUNTERCLAIM DEFENDANT’S MOTION FOR INVOLUNTARY DISMISSAL WITH PREJUDICE AND ENTRY OF JUDGMENT FOR PLAINTIFF’S FAILURE TO PROSECUTE UNDER 37 C.F.R. § 2.132(a) to be served upon Petitioner’s counsel by First Class Mail at the following address:

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/s/ Richard B. Biagi

One of the Attorneys for Registrant/Defendant