

ESTTA Tracking number: **ESTTA414658**

Filing date: **06/15/2011**

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

Proceeding	91198558
Party	Plaintiff Next Realty L.L.C.
Correspondence Address	LARRY L SARET MICHAEL BEST & FRIEDRICH LLP 180 NORTH STETSON AVENUE, SUITE 2000 CHICAGO, IL 60601 UNITED STATES ltsaret@michaelbest.com
Submission	Motion for Default Judgment
Filer's Name	Larry L. Saret
Filer's e-mail	chiipdocket@michaelbest.com, ltsaret@michaelbest.com, dsternig@michaelbest.com
Signature	/larry l. saret/
Date	06/15/2011
Attachments	Opposer's Motion For Default and Default Judgment.PDF ( 4 pages )(92112 bytes ) Exhibit A to Opposer's Motion for Default and Default Judgment.PDF ( 1 page )(21401 bytes ) Exhibit B to Opposer's Motion for Default and Default Judgment.PDF ( 1 page )(25532 bytes )

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

In the Matter of U.S. Trademark Application No.: 77/932,446  
For the Mark: NEXTCOMPANY

---

Next Realty, L.L.C.,	)	
	)	
Opposer,	)	
v.	)	Opp. No. 91198558
	)	
NEXTCOMPANY International Holdings	)	
	)	
Applicant.	)	

---

**Opposer's Motion For Default and Default Judgment**

---

Opposer Next Realty L.L.C. hereby moves pursuant to Rule 55 Fed. R. Civ. Pro. for entry of a default and default judgment due to Applicant Nextcompany International Holdings Inc.'s failure to defend.

The grounds for this motion are:

1. The opposition was filed on February 11, 2011.
2. On April 21, 2011, following an extension of time with consent, Applicant filed its Answer.
3. On May 20, 2011, Opposer filed a motion for Extension of Time to set the upcoming dates pending settlement negotiations.
4. On May 27, 2011, Applicant's attorney Arturo Perez-Guerrero sent Opposer's attorney an e-mail stating that Applicant has "lost interest in the mark and that they wil[sic] not pursue its defense or registration ...." The e-mail further stated that Mr. Perez-Guerrero has been "instructed ... to not take any further action in this case." A copy of that e-mail is attached as Exhibit A hereto.

5. On May 31, 2011, Opposer's counsel Larry L. Saret responded to Mr. Perez-Guerrero by e-mail asking if his client would sign an express withdrawal of its application, but Mr. Saret has received no reply. A copy of Mr. Saret's e-mail is attached as Exhibit B.

It is apparent that Applicant intends to abandon its application and not defend the opposition. Rule 55 Fed. R. Civ. Pro. authorizes a default and a default judgment when a party "against whom a judgment for affirmative relieve is sought has failed to ... otherwise defend." In this case, the e-mail from Applicant's attorney expressly states that Applicant "wil[l] not pursue its defense or registration."

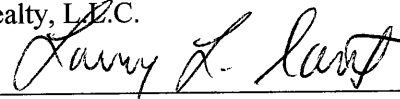
For the foregoing reasons, judgment should be entered in Opposer's favor and the opposition sustained.

Dated: June 15, 2011

Respectfully submitted,

Next Realty, L.L.C.

By: \_\_\_\_\_



One of its Attorneys

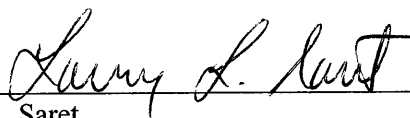
Larry L Saret  
Luke W. DeMarte  
Jin-Won Jung  
Michael Best & Friedrich LLP  
180 North Stetson Avenue, Suite 2000  
Chicago, Illinois 60601  
Tel: (312) 222-0800  
Fax: (312) 222-0818

Attorneys for Next Realty, L.L.C.

**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and complete copy of the foregoing Opposer's Motion For Default Judgment has been served upon Applicant by mailing said copy on June 15, 2011 via e-mail and first class mail, postage prepaid, to:

Arturo Perez-Guerrero  
Law Offices of Arturo Perez-Guerrero  
P.O. Box 9024163  
San Juan, PR 00902-4163



---

Larry L. Saret  
Jin-Won Jung  
MICHAEL BEST & FRIEDRICH LLP  
180 North Stetson Avenue, Suite 2000  
Chicago, IL 60601  
Tel: (312) 222-0800  
Fax: (312) 222-0818

Attorneys for Opposer



---

**From:** Arturo Perez-Guerrero [arturo@perezguerrero.com]  
**Sent:** Friday, May 27, 2011 10:21 AM  
**To:** Ternig, Dawn S (32109)  
**Cc:** Saret, Larry L (32116)  
**Subject:** Re: FW: Next Realty LLC v. NextCompany Int'l Holdings Inc.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Larry:

Hope all is well.

The client has informed me today that they have lost interest in the mark and that they wil not pursue its defense or registration. They have instructed us to not incur in any expenses and to not take any further action in this case.

Do not hesitate to contact me if you have any questions, comments or concerns.

Best regards,

**Lcdo. Arturo Pérez-Guerrero**  
**Registro y Mantenimiento de Marcas en Estados Unidos**  
**PMB 315, Suite 67**  
**35 Juan Carlos de Borbón**  
**Guaynabo, Puerto Rico 00969-5375**  
**Tel. 787 722-3446; 787 722-4450; 787 723-1469**  
**Fax 787 725-3144; 787 998-7474; 787 725-7849**  
**Email:**  
**[arturo@perezguerrero.com](mailto:arturo@perezguerrero.com);**  
**[arturo@marcas-estadosunidos.com](mailto:arturo@marcas-estadosunidos.com)**

Exhibit A

---

**From:** Saret, Larry L (32116) [LLSaret@michaelbest.com]  
**Sent:** Tuesday, May 31, 2011 12:04 PM  
**To:** arturo@perezguerrero.com; Ternig, Dawn S (32109)  
**Subject:** RE: Next Realty LLC v. NextCompany Int'l Holdings Inc.

Thanks for the update. Will your client sign an express withdrawal of its application?

From: Arturo Perez-Guerrero [mailto:arturo@perezguerrero.com]  
Sent: Friday, May 27, 2011 10:21 AM  
To: Ternig, Dawn S (32109)  
Cc: Saret, Larry L (32116)  
Subject: Re: FW: Next Realty LLC v. NextCompany Int'l Holdings Inc.

Dear Larry:

Hope all is well.

The client has informed me today that they have lost interest in the mark and that they will not pursue its defense or registration. They have instructed us to not incur in any expenses and to not take any further action in this case.

Do not hesitate to contact me if you have any questions, comments or concerns.

Best regards,

**Lcdo. Arturo Pérez-Guerrero**  
**Registro y Mantenimiento de Marcas en Estados Unidos**  
**PMB 315, Suite 67**  
**35 Juan Carlos de Borbón**  
**Guaynabo, Puerto Rico 00969-5375**  
**Tel. 787 722-3446; 787 722-4450; 787 723-1469**  
**Fax 787 725-3144; 787 998-7474; 787 725-7849**  
**Email:**  
**arturo@perezguerrero.com;**  
**arturo@marcas-estadosunidos.com**

Exhibit B