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

Proceeding	91205049
Party	Plaintiff Productos Lacteos Tocumbo , S.A. DE C.V.
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Submission	Motion for Default Judgment
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Date	08/18/2020
Attachments	Motion for Default.pdf(216937 bytes)

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

PLM Operations, LLC)) Opposer,) v.) Productos Lacteos Tocumbo S.A. De C.V.)) Applicant.) _____) Productos Lacteos Tocumbo S.A. De C.V.)) Counterclaimant,) v.) PLM Operations, LLC)) Respondent.) _____))	Opposition No. 91205049 (Parent) Opposition No.: 91249913 Serial No.: 88331594  Trademark: _____ Cancellation Counterclaims against: Reg. No. 5757880  Trademark: Reg. No. 5757881  Trademark:
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MOTION FOR DEFAULT

Applicant/Counterclaimant, Productos Lacteos Tocumbo S.A. de C.V., (“PROLACTO”), by and through its undersigned attorney, hereby requests that the Board enter the default of Respondent PLM Operations, LLC, due to its failure to timely Answer or otherwise respond to PROLACTO’s Counterclaims for Cancellation of U.S. Registration Nos. 5,757,880 and 5,757,881.

At page 8 of the Board’s Order of May 19, 2020, entered and served in this action (namely Opposition No. 91249913) and as was further filed and served in pending Board proceeding Nos. 91205049 , 91205093, 91205049, 91205093, 91205466, 91205468, 91245908

“PLM is allowed until TWENTY DAYS from the date of this order in which to file and serve an answer or otherwise respond to the counterclaims. PLM should file its answer

to the counterclaims separately in Opposition No. 91244913, as an exception to the general rule that all filings be made in the parent case only.”

Although twenty days from May 19, 2020 would have elapsed on JUNE 8, 2020 within the schedule set forth on Page 10 of the Board’s May 19, 2020 Order the Board (erroneously) further specified the due date of June 18, 2020 for PLM’s Answer to Counterclaim in Opposition No. 91249913.

Either way, it has now been more than ninety (90) days since the issuance of the Board’s May 19, 2020 Order and well more than sixty days since the date set for the Board in which PLM would be allowed to file its Answer to PROLACTO’s Counterclaims herein.

Further, according to 37 CFR § 2.114(a): “If no answer is filed within the time set, the petition may be decided as in case of default.” Thus, the PLM’s default should be entered and PROLACTO’s Counterclaims for Cancellation of PLM’s Registrations should be granted as decided as in default.

PROLACTO has been and is being harmed by PLM’s delay. Inasmuch as PLM filed the action, has steadfastly argued in favor of expedition in this proceeding, and has been treated quite favorably by the Board in the related proceedings, (which have been pending for more than 13 years), PLM can hardly show good cause for its failure to file an Answer to PROLACTO’s counterclaims herein.

In addition, PLM has further violated the Board’s Scheduling Order herein by failing to serve its Initial Disclosures as required at page 10 of the Board’s Order.

In view of the foregoing, the Board should find PLM in default and grant PROLACTO’s Counterclaims for Cancellation. At very least, the Board should promptly issue a notice that PLM show good cause why default should not be entered against it for failure to timely file any

response herein and be further warned of the consequences of, if not sanctioned for such dilatory behavior in the future.

Respectfully submitted,

ANDERSON LAW

Dated August 18, 2020 6:23 PM PST

by: s/Stephen L. Anderson/
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address of record by EMAIL on this date.

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Dated: August 18, 2020

by: /StephenLAnderson/
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