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

Proceeding	91220284
Party	Defendant John Houseal and GIVN Goods Inc. aka GIVN Water
Correspondence Address	JOHN HOUSEAL GIVN GOODS INC 400 PERIMETER CENTER TERRACE N, SUITE 900 ATLANTA, GA 30319 UNITED STATES john.houseal@givnbrands.com, john.houseal@gmail.com
Submission	Motion for Default Judgment
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Signature	/John Houseal/
Date	09/01/2015
Attachments	Motion for Default Judgement Final 090115.pdf(201992 bytes)

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

In the matter of Application Serial No.: 86247771
Published in the Official Gazette on September 23, 2014

Karma Culture, LLC

Opposer,

Opposition No.: 91220284

v.

MARK: INFUSED WITH GOOD KARMA
Serial No.: 86247771

GIVN Goods Inc.

Applicant.

Attn.: Trademark Trial and Appeal Board
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MOTION FOR ENTRY OF DEFAULT JUDGEMENT

Applicant GIVN Goods Inc. ("Applicant/Counterclaim Plaintiff"), owner of U.S. Trademark Application for "INFUSED WITH GOOD KARMA," Serial No. 86247771, moves the Board pursuant to 37 C.F.R § 2.114(a) for entry of default judgement on the grounds that Opposer Karma Culture, LLC ("Opposer/Counterclaim Defendant") has failed to file an answer within the time set by the Board. In support of its motion, Applicant states:

- 1) On January 21, 2015, the Board commenced opposition proceeding No.: 91220284.
- 2) On February 24, 2015, the Applicant/Counterclaim Plaintiff sent by first class mail a copy of the Answer and Counterclaim to the Opposer/Counterclaim Defendant and their Attorney of record at the addresses, respectively, which are on record with the USPTO.

- 3) On February 24, 2015, Applicant/Counterclaim Plaintiff filed its Answer and Counterclaim with the USPTO, which was instituted by the Board on March 30, 2015.
- 4) On January 21, 2015, the Board set April 29, 2015 as the time for the Opposer/Counterclaim Defendant file an Answer to the Counterclaim.
- 5) On June 25, 2015, the Board entered a notice of default pursuant to Fed. R. Civ. P. 55(a), inasmuch as it appeared that no Answer had been filed, nor had a motion to extend the time to file been filed by the Opposer/Counterclaim Defendant.
- 6) As of the date of this Motion for Entry of Default Judgment, or September 1, 2015, 189 days after Applicant/Counterclaim Plaintiff's Answer and Counterclaim was filed on Opposer/Counterclaim Defendant and 68 days after the Board entered a notice of default, Opposer/Counterclaim Defendant has neglected to file an Answer or request an extension of time to file such Answer..
- 7) "[T]he standard for determining whether a default judgement should be entered against a defendant, for its failure to file a timely answer to a complaint, is the Fed. R. Civ. P. 55(c) standard, which requires that a defendant show good cause why default judgement should not be entered against it." TTAB Manual of Procedure § 508, p. 500-37.
- 8) Because Opposer/Counterclaim Defendant has failed to file an Answer within the time permitted and failed to show good cause why default judgment should not be entered, default judgement should be granted to the Applicant/Counterclaim Plaintiff and an order entered to deny Opposition No. 91220284, and permit registration of U.S. Trademark Application for "INFUSED WITH GOOD KARMA," Serial No.86247771.
- 9) Because Opposer/Counterclaim Defendant has failed to file an Answer within the time permitted and failed to show good cause why default judgment should not be entered, default judgement should be granted and an order entered to sustain Applicant/Counterclaim Plaintiff's Petition to Cancel Opposer's Registration No. 4063528 ("KARMA") for fraud.

10) Because Opposer/Counterclaim Defendant has failed to file an Answer within the time permitted and failed to show good cause why default judgment should not be entered, default judgement should be granted and an order entered to sustain Applicant/Counterclaim Plaintiff's Petition to Cancel Opposer's Registration No. 4063528 ("KARMA") for abandonment.

WHEREFORE, Applicant/Counterclaim Plaintiff respectfully requests that this Motion for Entry of Default Judgement be granted.

Dated: Atlanta, Georgia

September 1, 2015

Respectfully submitted,

/s/John Houseal

John Houseal, President
GIVN GOODS INC.
400 Perimeter Center Terrace. N.
Suite 900
Atlanta, Georgia 30319
Phone: 404-955-8095
john.houseal@givnbrands.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing Answer to Opposition and Counterclaim has been served on the Opposer Karma Culture, LLC by mailing a copy of the same on September 1, 2015 via First Class Mail, postage prepaid to the owner of record of U.S. Trademark Registration No. 4063528 at the address for the party identified as "Current Owner" in the USPTO TSDR database:

Karma Culture, LLC.
P.O. Box 698
Mendon, New York 14506
United States

With a copy by first class mail, postage prepaid, to the opposing counsel and attorney for U.S. Trademark Registration No. 4063528:

Katherine H. McGuire, Esq.
Woods Oviatt Gilman LLP
2 State Street
700 Crossroads Building
Rochester, NY 14614

Executed in Atlanta, Georgia on September 1, 2015.

By_ /s/ John Houseal