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Filing date: **05/15/2017**

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

|                        |   |
|------------------------|---|
| Proceeding             | 91230403  |
| Party                  | Plaintiff<br>Securrency, Inc.   |
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| Submission             | Reply in Support of Motion  |
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| Signature              | /Rishi Nair/  |
| Date                   | 05/15/2017  |
| Attachments            | Reply Brief In Support of Motion to Strike and For Default Securrency<br>91230403.pdf(129535 bytes )  |

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

*In the matter of:*

Trademark Application Serial No. 86/904,230

Filing Date: February 10, 2016

Mark: SECURENCY

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|------------------|---|-------------------------|
|                  | ) |                         |
| Securrency, Inc. | ) |                         |
|                  | ) |                         |
|                  | ) |                         |
|                  | ) |                         |
|                  | ) |                         |
| Opposer,         | ) |                         |
|                  | ) |                         |
| v.               | ) | Opposition No. 91230403 |
|                  | ) |                         |
| Luigi Boschin    | ) |                         |
|                  | ) |                         |
|                  | ) |                         |
| Applicant.       | ) |                         |
|                  | ) |                         |

**REPLY BRIEF IN SUPPORT OF MOTION TO STRIKE ANSWER  
AND FOR DEFAULT**

Opposer, Securrency, Inc., by and through their attorney of record, hereby replies in support of its Motion to Strike a Late-Filed Answer and For Default.

In support of the Motion, Opposer states as follows:

**BRIEF IN SUPPORT OF MOTION**

1. Applicant filed its Response to Opposer’s Motion on April 26, 2017.
2. In its Response Brief, Applicant acknowledged filing its Answer “two days late due his counsel’s calendaring error.” App. Resp. Brief, p.1.
3. Applicant requests that the Board accept the late filed Answer but still has not moved to enlarge or otherwise comply with Board rules regarding such an instance.

4. While Opposer acknowledges it has not been injured or prejudiced as Rule 55 envisions, it believes that the other elements of Rule 55 have not been satisfied by Applicant's Response Brief or addressed through other ameliorative Motion practice.
5. Opposer also acknowledges that Applicant has disavowed any intentional conduct in the delay and that the delay was short, however, Opposer believes Applicant's defenses are insufficiently pleaded and otherwise improper and that a meritorious defense to the action is not present.
6. Applicant states it has a "meritorious" defense but there are no facts or circumstances pled to indicate a *prima facie* defense actually exists or would apply to this proceeding. Instead, Applicant insufficiently pleaded defenses under Federal Rule 8(b). Specifically, Opposer asserts that Applicant has failed to state the elements of his defenses and that the alleged defenses are conclusory and boilerplate in nature, with the result that they fail to give Opposer fair notice of the basis for the defenses.
7. Applicant's proffered defenses include: (1) No Injury or Damage; (2) Failure to State a Claim; and (3) Priority of Rights. Each of these is insufficient. *See Hornblower & Weeks Inc. v. Hornblower & Weeks Inc.*, 60 USPQ2d 1733, 1738 n.7 (TTAB 2001); *see also Blackhorse v. Pro Football, Inc.*, 98 U.S.P.Q.2d 1633, 1637 (TTAB 2011)(finding that failure to state a claim is not a "cognizable affirmative defense".)
8. These defenses are not true defenses but rather are attacks on the sufficiency of Opposer's pleading. Thus, they are barred by *Hornblower* and *Blackhorse*.

9. Finally, each defense stated is a boilerplate defense and no facts are provided to support the bald conclusions within the Applicant's Answer or Affirmative Defenses which would support any of the claimed Defenses.
10. Thus, despite Applicant's claims, they do not have a meritorious defense and are missing an element required by FRCP 55(c). If Applicant had wished to remedy their late-filed Answer, Opposer requested the Applicant file an Answer or contact Opposer but Applicant refuses to do so and Opposer is compelled to challenge the violation of Board rules and procedures.

As such, for the foregoing reasons, Opposer requests that the Board strike Applicant's late filed answer and grant Opposer a default judgment for lack of compliance with Board rules.

Dated this May 15, 2017

                  /Rishi Nair/

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of Opposer's Reply Brief in Support of Its Motion to Strike and For Default has been served on, BRUNO TARABICHI, counsel for Applicant, the following by emailing said copy on this May 15, 2017, at the following addresses:

btarabichi@owenstarabichi.com

By:     /Kevin Keener/    

Kevin Keener