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

Proceeding	91264624
Party	Plaintiff Wayfair LLC
Correspondence Address	JOSHUA M. DALTON, ESQ. MORGAN, LEWIS & BOCKIUS LLP ONE FEDERAL STREET BOSTON, MA 02110 UNITED STATES Primary Email: trademarks@morganlewis.com Secondary Email(s): josh.dalton@morganlewis.com, amelia.pennington@morganlewis.com, rachelle.dubow@morganlewis.com 6179518939
Submission	Motion for Default Judgment
Filer's Name	Joshua M. Dalton
Filer's email	trademarks@morganlewis.com, amelia.pennington@morganlewis.com, rachelle.dubow@morganlewis.com
Signature	/Joshua M. Dalton/
Date	10/28/2020
Attachments	Motion for Default Judgment BIRCH VILLA Opposition.pdf(129617 bytes)

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

In the matter of Application Serial No. **88/872,854**
Filed April 15, 2020
For the mark **BIRCH VILLA**
Published in the OFFICIAL GAZETTE on August 11, 2020

Wayfair LLC

Opposer,

v.

Xie Wanli,

Applicant

Opposition No. 91264624

MOTION FOR DEFAULT JUDGMENT

Opposer Wayfair LLC (“Opposer”) respectfully moves for the entry of a Default Judgment in Opposition No. 91264624 on the ground that applicant Xie Wanli (“Applicant”) has failed to respond to the Notice of Opposition within the time period set by the Board. 37 C.F.R. § 2.106(a); TBMP § 312.01.

Opposer filed its Notice of Opposition on September 08, 2020 and served the Notice on Applicant’s Attorney of Record on the same day. Dkt. 1. Pursuant to the Board’s Notice on September 08, 2020, Applicant’s answer was due no later than October 18, 2020. Dkt. 2. The answer deadline has now passed and no answer has been served on Opposer, and by reviewing the Trademark Trial and Appeal Board Inquiry System (TTABVUE), Opposer has determined that no answer was filed with the Board. Accordingly, Applicant is in default pursuant to 37 C.F.R. § 2.106(a) and TBMP § 312.01.

Pursuant to TBMP § 312.01, an opposer, realizing that an applicant is in default, may file a motion for default judgment, which may substitute for the Board’s issuance of a notice of

default. In that case, the applicant has 30 days to show cause as to why a default judgment should not be entered against it. *Id.* If the applicant fails to file a response, or files a response that does not show good cause, default judgment may be entered against it. *Id.*; 37 C.F.R. § 2.106(a).

For the above reasons, Opposer respectfully requests that the Board enter a Default Judgment against Applicant in Opposition No. 91264624 if Applicant does not file a response on or before November 28, 2020 or files a response on or before that date that does not show good cause for its failure to timely answer the Notice of Opposition.

Dated: October 28, 2020

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS, LLP

By: /s/ Joshua M. Dalton
Joshua M. Dalton

Joshua M. Dalton
Rachelle A. Dubow
Morgan, Lewis & Bockius, LLP
One Federal Street
Boston, MA 02110
Telephone: (617) 951-8284
Facsimile: (617) 341-7701
Email: josh.dalton@morganlewis.com
Email: rachelle.dubow@morganlewis.com

Attorneys for Opposer
Wayfair LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Opposer's Motion for Default Judgment has been sent via email this 28th day of October 2020 to:

ABRAHAM LICHY
THE LICHY LAW FIRM, P.C.
222 EAST 68TH STREET
NEW YORK, NY 10065

alichy@lichylaw.com

/Amelia G. Pennington/