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Filing date: **09/13/2021**


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

Proceeding	91269673
Party	Plaintiff Mark-Edwards Apparel Inc./Vetements Mark-Edwards Inc.
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Date	09/13/2021
Attachments	Mark Edwards - Riot Society - Response to Motion to Vacate.pdf(173511 bytes)

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

In re App. Ser. No. 90/354,950 – 

In re App. Ser. No. 90/354,219 – 

In re App. Ser. No. 90/354,081 – 

Filed: December 2, 2020

MARK-EDWARDS APPAREL INC./
VETEMENTS MARK-EDWARDS INC. :

Opposer, :

v. : Opposition No. 91269673
: Opposition No. 91269674
: Opposition No. 91269675

L.A. T SHIRT & PRINT, INC., :

Applicant. :

RESPONSE TO MOTION TO VACATE

Opposer Mark-Edwards Apparel Inc./Vetements Mark-Edwards Inc. (“Opposer”) states as follows with regard to the Motion to Vacate Default filed by Applicant L.A. T Shirt & Print, Inc. (“Applicant”).

On July 24, 2021, the Board entered a Notice of Default in this proceeding based on Applicant’s failure to timely respond to Opposer’s Notice of Opposition. That Notice states: “Applicant is allowed until thirty days from the date of this order to show cause why judgment by default should not be entered against Applicant in accordance with Fed. R. Civ. P. 55(b)(2).” The Order does not request nor invite a reply from Opposer.

On August 23, 2021, Opposer filed a document styled as a “Motion to Vacate,” which seeks to vacate the Notice of Default. To the extent that this document is properly construed as a response to the Board’s July 24, 2021 invitation to show cause, it is unclear whether Opposer has a right of response, as it is not specified in the Notice of Default.

To the extent that Opposer does have a right of response, Opposer respectfully defers to the Board’s judgment as to whether Applicant has made a sufficient showing to justify setting aside the default. Opposer does dispute, however, that any meritorious defenses have been shown, as Applicant’s submission is unsupported by either affidavit or proposed answer. T.B.M.P. § 312.01. Applicant submits only a proposed motion to dismiss, which purports to belatedly identify pleading deficiencies, and is not a defense on the merits. *See Hornblower & Weeks Inc. v. Hornblower & Weeks Inc.*, 60 USPQ2d 1733, 1738 n.7 (T.T.A. B. 2001).

Respectfully submitted,

MARK-EDWARDS APPAREL INC./
VETEMENTS MARK-EDWARDS INC.

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Dated: September 13, 2021

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Response to Motion to Vacate has been served on the following by delivery said copy on September 13, 2021, via email, to counsel for Applicant at the following address:

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