

ESTTA Tracking number: **ESTTA1296431**

Filing date: **07/11/2023**

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

Proceeding no.	91285249
Party	Plaintiff Daddy Ersin Productions, LLC
Correspondence address	ERIK J. OSTERRIEDER KEARNEY, MCWILLIAMS & DAVIS 55 WAUGH, STE. 150 HOUSTON, TX 77007 UNITED STATES Primary email: ejo@kmd.law Secondary email(s): trademarks@kmd.law 7132010303
Submission	Motion for Default Judgment
Filer's name	Erik J. Osterrieder
Filer's email	ejo@kmd.law, trademarks@kmd.law
Signature	/Erik J. Osterrieder/
Date	07/11/2023
Attachments	Motion and Brief in Suppor Thereof for Default Judgment.pdf(26830 bytes )

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

Daddy Ersin Productions, LLC,	§	
Opposer,	§	
	§	
	§	
v.	§	Opposition No. 91285249
	§	
Jonathan Foulk,	§	
Applicant.	§	Ser. No. 97/493154
	§	Mark: DADDYLAND
	§	Pub. for Opp. Date: May 30, 2023

**OPPOSER’S MOTION AND BRIEF IN SUPPORT THEREOF**  
**FOR DEFAULT JUDGMENT**

PLEASE TAKE NOTICE that Opposer Daddy Ersin Productions, LLC (“Opposer”) by this filing and pursuant to sections 312.01 and 508 of the Trademark Trial and Appeal Board Manual of Procedure, as well as 37 CFR §§2.114(a) and Rule 55 of the Federal Rules of Civil Procedure, hereby moves the Trademark Trial and Appeal Board (“TTAB”) to enter default judgment against Applicant Jonathan Foulk (“Applicant”) for failure to answer the Notice of Opposition within the time allowed.

**FACTS**

Opposer instituted this opposition against Applicant’s Ser. No. 97/493154 for DADDYLAND. The notice of opposition was served on Applicant by the TTAB on May 30, 2023. As of the date of this motion, Applicant has neither filed its answer nor any other document. Further, Opposer has received no communication from Applicant.

## **AUTHORITY AND ARGUMENT**

Since Applicant neither filed its answer due on July 9, 2023, nor filed any other document or had any communication of record with the Board or Opposer's counsel since institution of this opposition, then the Board should enter default judgment or notice of default judgment for Opposer on this motion. Relevant authority provides:

(1) the Board complied with 37 CFR 2.105(a) to provide Applicant with the Notice of Opposition, designated more than 30 days to answer (i.e., July 9, 2023), and contained electronic to access the electronic proceeding record;

(2) since no answer was filed "within the time initially set ... the opposition may be decided as in case of default" pursuant to 37 CFR 2.106(a) and TBMP 312.01;

(3) pursuant to TBMP 312.01, "[i]f a defendant fails to file an answer to a complaint during the time allowed therefor, the Board may issue a notice of default. The notice states that neither an answer nor any extension of time to answer has been filed; that notice of default under Fed. R. Civ. P. 55(a) is entered; and that defendant is allowed 30 days from the mailing date of the notice in which to show cause why default judgment should not be entered against it. If the defendant fails to file a response to the notice, or files a response that does not show good cause, default judgment may be entered against it"; and

(4) pursuant to TBMP 312.01, "[t]he issue of whether default judgment should be entered against a defendant for failure to file a timely answer to the complaint may also be raised by means other than the Board's issuance of a notice of default. For example, the plaintiff, realizing that the defendant is in default, may file a motion for default judgment (in which case the motion may serve as a substitute for the Board's issuance of a notice of default)."

Accordingly, Opposer respectfully requests that the Board issue default judgment in favor of Opposer or a notice of default judgment to Applicant. If the latter and Applicant fails to file a response within the time specified, this motion for default judgment should be deemed conceded and granted forthwith. 37 CFR §2.127(a) (the Board may treat the motion as conceded).

## **CONCLUSION**

Based at least on the foregoing, it is submitted that good grounds exist for granting the motion for default judgment or a notice therefor in Opposer's favor.

Respectfully submitted,

Date: July 11, 2023

/Erik J. Osterrieder/  
Erik J. Osterrieder  
Kearney McWilliams & Davis  
55 Waugh, Ste. 150  
Houston, TX 77007  
Tel.: (713) 201-0303  
[ejo@kmd.law](mailto:ejo@kmd.law)  
**ATTORNEY FOR OPPOSER**

## CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being transmitted with the TTAB's electronic filing system (ESTTA) by the signatory on the date below.

Date: July 11, 2023

/Erik J. Osterrieder/  
Erik J. Osterrieder  
Kearney McWilliams & Davis  
55 Waugh, Ste. 150  
Houston, TX 77007  
Tel.: (713) 201-0303  
[ejo@kmd.law](mailto:ejo@kmd.law)  
**ATTORNEY FOR OPPOSER**

## CERTIFICATE OF SERVICE

I, Erik J. Osterrieder, counsel for Opposer, hereby certify that copies of the foregoing Opposer's Motion and Brief in Support Thereof for Default Judgment were served, via email, upon Applicant, at:

[jonathanfoulk@gmail.com](mailto:jonathanfoulk@gmail.com); [uspto@trademark-genius.com](mailto:uspto@trademark-genius.com)

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/Erik J. Osterrieder/  
Erik J. Osterrieder  
Kearney McWilliams & Davis  
55 Waugh, Ste. 150  
Houston, TX 77007  
Tel.: (713) 201-0303  
[ejo@kmd.law](mailto:ejo@kmd.law)  
**ATTORNEY FOR OPPOSER**