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

In the Matter of U.S. Trademark Registration No. 2,034,256
For the Mark PRESTIGE
Registered on January 28, 1997

LDR INDUSTRIES, INC.,)
)
Petitioner,)
)
v.)
)
FRANKLIN BRASS)
MANUFACTURING CO.)
)
Registrant.)

Cancellation No. 92040392

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Box TTAB
Assistant Commissioner for Trademarks
Trademark Trial and Appeal Board
2900 Crystal Drive
Arlington, Virginia 22202-3513

06-25-2002
U.S. Patent & TMOtc/TM Mail Rcpt Dt. #34

MOTION FOR ENTRY OF DEFAULT JUDGMENT

LDR Industries, Inc. ("Petitioner"), through its attorneys, moves for entry of default judgment for failure of Franklin Brass Manufacturing Co. ("Registrant") to answer Petitioner's complaint pursuant to Rule 55 of the Federal Rules of Civil Procedure. As grounds for default, Petitioner asserts the following:

1. On January 22, 2002, Petitioner filed a petition to cancel Registrant's mark PRESTIGE (hereinafter "Registrant's Mark") on the grounds that Registrant's Mark so resembles Petitioner's PRESTIGE trademark as to be likely, when used on or in connection with Registrant's goods to cause confusion, or to cause mistake, or to deceive, all to Petitioner's damage. Petitioner further alleged damage if Registrant's Mark were to become incontestable.

2. On January 22, 2002, Petitioner mailed a courtesy copy of its petition to cancel to Mr. Edgar Zarins, intellectual property counsel for Masco Corporation. Upon information and belief, Masco Corporation is the parent company of Registrant.

3. On, March 20, 2002, the Board issued a scheduling order under which Registrant was required to answer the complaint or otherwise plead by April 29, 2002. A copy of the scheduling order is attached hereto as Exhibit 1.

4. Upon information and belief, Registrant has not filed an answer to the complaint with the Board nor otherwise pled. Attached as Exhibit 2 is a copy of the prosecution history for this cancellation proceeding as it appeared on June 24, 2002, on the TTAB Board Information System Index located at www.uspto.gov.

5. As of June 24, 2002, Petitioner has not been served with Registrant's answer or a request for an extension of time to answer.

6. On May 27, 2002, and May 31, 2002, counsel for Petitioner, Ms. Beau Barberis, attempted to contact Mr. Zarins to determine if an answer had been filed but her calls were not returned.

7. Pursuant to TBMP § 508, a plaintiff, believing a defendant to be in default, may bring a motion for default judgment. Because Registrant has failed to file an answer or otherwise plead to Petitioner's complaint by the date set by the Board, Petitioner's motion for entry of default judgment should be granted.

WHEREFORE, Petitioner prays that its motion for entry of default judgment be granted and that U.S. Registration No. 2,034,256 be canceled.

Respectfully submitted,

Dated: June 24, 2002

By:

A handwritten signature in black ink, appearing to read "Richard B. Hoffman", written over a horizontal line.

Richard B. Hoffman
Beau D. Barberis
MARSHALL, GERSTEIN & BORUN
233 S. Wacker Drive
6300 Sears Tower
Chicago, Illinois 60606
(312) 474-6300

Attorneys for Petitioner

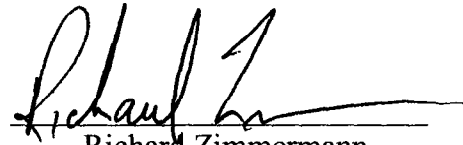
CERTIFICATE OF EXPRESS MAILING

I hereby certify that the foregoing document is being deposited with the United States Postal Service as "EXPRESS MAIL" in an envelope addressed to BOX TTAB, Assistant Commissioner of Trademarks, Trademark Trial and Appeal Board, 2900 Crystal Drive, Arlington, VA 22202-3513 on June 24, 2002.

Express Mail No: EU 424 300 283 US

Date of Deposit: June 24, 2002

Signed: June 24, 2002


Richard Zimmermann

CERTIFICATE OF SERVICE

I hereby certify that a copy of Petitioner's Motion for Entry of Default Judgment was served on June 24, 2002, by depositing said copy with the U.S. Postal Service as first-class mail, postage prepaid, addressed to the following:

FRANKLIN BRASS MANUFACTURING CO.
19914 Via Barron Ranchero
Dominguez, California 90220

and

Edgar Zarins, Esq.
MASCO CORPORATION
21001 VanBorn Road
Taylor, Michigan 48180


Beau D. Barberis

the *Official Gazette* on October 20, 1998 at 1215 TMOG 64. A copy of the recent amendments to the Trademark Rules, as well as the *Trademark Trial and Appeal Board Manual of Procedure* (TBMP), is available at <http://www.uspto.gov>.

Discovery and testimony periods are set as follows:

| | |
|-------------------------------------------------------------------------|-----------------|
| Discovery period to open: | April 9, 2002 |
| Discovery period to close: | October 6, 2002 |
| 30-day testimony period for party in position of plaintiff to close: | January 4, 2003 |
| 30-day testimony period for party in position of defendant to close: | March 5, 2003 |
| 15-day rebuttal testimony period for plaintiff to close: | April 19, 2003 |

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

NOTE: The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). A hard copy of the *Official Gazette* containing this notice is available for a fee from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (Telephone (202) 512-1800). The notice is also available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

Adversary Proceeding Data

Proceeding Number: 92040392
Proceeding Status and Date: Pending 2002-03-20
Interlocutory Attorney Name: FRANCES S WOLFSON
Proceeding Location: 845 - TTAB
Proceeding Location Date: 2002-03-20
Proceeding Charged To Location:
Proceeding Charged To Employee Name:
Date Proceeding Filed: 2002-01-22

Prosecution History

| Entry# | Entry Date | Due Date | History Text |
|---------------|-------------------|-----------------|---------------------------------------------|
| 3 | 2002-03-20 | | PENDING, INSTITUTED |
| 2 | 2002-03-20 | 2002-04-29 | NOTICE AND TRIAL DATES SENT; ANSWER DUE: |
| 1 | 2002-01-22 | | FILED AND FEE |

Defendant Name Information:**FRANKLIN BRASS MANUFACTURING CO.****Owner Address:****19914 VIA BARRON****RANCHO DOMINGUEZ, CA 90220****Correspondence Address:****FRANKLIN BRASS MANUFACTURING CO.****19914 VIA BARRON WAY****RANCHO DOMINGUEZ, CA 90220****Defendant Property Information:****Serial Number: 74609485****Registration Number: 2034256****International Classes: 006 021****Application Status: 790 - Cancellation pending****Application Status Date: 2002-03-20****Application Location: 849 - TTAB****Application Date in Location: 2002-06-04****Law Office Assigned: L30 - TMEG Law Office 103****Attorney: Steven Plotkin****Domestic Representative:****Application Charged to Location:****Application Charged to Employee:****Registration Date: 1997-01-28****Examiner Name: MICHELL MOONEY****Mark: PRESTIGE****Application Filing Date: 1994-12-12****Plaintiff Name Information:****LDR INDUSTRIES, INC.**

Correspondence Address:

**RICHARD B. HOFFMAN
MARSHALL, GERSTEIN & BORUN
233 S. WACKER DRIVE, 6300 SEARS TOWER
CHICAGO , , IL, 60606**

Plaintiff Property Information:

Serial Number: 0

Registration Number: 0