

JUDGE _____

Date: _____

3. On October 11, 2004, counsel for Petitioner sent a letter to Registrant requesting the status of Registrant's responses to Petitioner's Interrogatories, Requests for Production of Documents and Requests for Admissions, a copy of which is attached hereto as Exhibit "B."

4. On October 19, 2004, Chris Karlsrud, representing himself pro se, called Danny Awdeh, counsel for Petitioner, to discuss Registrant's response to Petitioner's Interrogatories, Request for Production of Documents and Request for Admissions. During this telephone conversation, Chris Karlsrud stated he had received Petitioner's Interrogatories, Request for Production of Documents and Request for Admissions and that he could not provide Petitioner's counsel with a date for his response. Chris Karlsrud stated he did not feel motivated to respond at this time. Leaving Petitioner with no other choice, Petitioner's counsel notified Chris Karlsrud that Petitioner would file a Motion to Compel Answers to Interrogatories, Request for Production of Documents and Request for Admissions. Chris Karlsrud did not object to Petitioner's Motion to Compel and commented that this matter should be brought before the Trademark Trial and Appeal Board.

5. As of this date, Registrant has completely failed to respond or seek extensions of time to respond to Petitioner's Interrogatories, Requests for Production of Documents and Requests for Admissions.

6. Registrant's answers to Petitioner's Interrogatories, Requests for Production of Documents and Requests for Admissions are late and Registrant has thereby waived objections which it might have interposed.

7. Under Rule 36 of the Federal Rules of Civil Procedure, Registrant's failure to respond to Petitioner's Requests for Admissions is deemed an admission.

8. Rule 37(b)(2)(C) of the Federal Rules of Civil Procedure and Trademark Rule 2.120(g)(2) authorize the Board to render a judgment of default against Registrant because of Registrant's complete failure to respond and failure to indicate when such responses will be forthcoming.

WHEREFORE, the Petitioner respectfully request the Board enter an Order:

- (a) rendering a judgment of default against Registrant, or alternatively,
- (b) finding Registrant has admitted each request for admission to which the Registrant failed to timely respond,
- (c) compelling Registrant to produce the requested documents no later than ten (10) days from the date of the Order,
- (d) compelling Registrant to answer Interrogatories no later than ten (10) days from the date of the Order,
- (e) finding that Registrant has waived all objections to the discovery, including objections based on privilege, and
- (f) for all other and further relief the Court deems appropriate and just under the circumstances.

MEMORANDUM OF LAW

Registrant has completely failed to make any response to Petitioner's Interrogatories, Request for Production of Documents and Request for Admissions without providing any

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