

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

A.HARDY/U.S.A. Ltd.

Plaintiff,

v.

V&S VIN & SPRIT AKTIEBOLAG (publ),

Defendant.

Case No. 07-CV-1675

Judge James B. Moran

Magistrate Judge Martin C. Ashman

V&S VIN & SPRIT AKTIEBOLAG (publ),

Counterclaim-Plaintiff,

v.

A.HARDY/U.S.A. Ltd.,

Counterclaim-Defendant.

RENEWED MOTION FOR JUDGMENT

Defendant/Counterclaimant, V&S Vin & Sprit Aktiebolag (“V&S”), hereby respectfully renews its motion requesting the Court to enter a judgment on V&S’s Motion for Summary Judgment, filed more than six (6) months ago on August 20, 2007 (Docket No. 22). Attached as Exhibit A hereto is a copy of V&S’s prior Motion for Default Judgment, which details Hardy’s pattern of delay through January 2008.

The Plaintiff, A. Hardy/USA, Ltd. (“Hardy”), has been now given *six* opportunities during the past *six* months to file its response to V&S’s Motion for Summary Judgment, and has still not filed a response. Hardy’s habitual failure to defend its frivolous trademark claims cannot

be justified, especially in the light of the extraordinary number of opportunities Plaintiff has been given to submit a response.

At the last status hearing on February 13, 2008, during which V&S presented its motion for default in view of Hardy's failure to file a response after numerous extensions, Counsel for Hardy represented to the Court that Hardy's response to V&S's motion for summary judgment was almost complete, and pledged to file the response by February 22, 2008. The Court noted that it strongly expected Hardy to honor its pledge to meet this latest (sixth-extended) deadline, and recommended that Counsel obtain assistance, if necessary, from a colleague. V&S's counsel warned that if Hardy again failed to file its response, V&S would renew its motion for default.

Hardy did not file a response by February 22, 2008. In fact, over ten days have now passed and Hardy has still not filed any response. Following its usual pattern, Hardy also did not file a motion requesting yet another extension, and did not contact V&S' counsel. Hardy's chosen course of conduct has descended into a mockery of the Court and V&S's counsel, and fully merits entry of judgment on Hardy's baseless claims, which it refuses to defend.¹

¹ The consequence of a party's failure to respond to a motion for summary judgment is that the facts set forth in the movant's statement of undisputed facts are admitted as true, and any additional facts later raised by the non-movant in opposition, if any, are not properly before the Court. *See Midwest Imports, Ltd. v. Coval*, 71 F.3d 1311, 1313 (7th Cir. 1995).

