

ESTTA Tracking number: **ESTTA687450**

Filing date: **08/04/2015**

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

Proceeding	92053254
Party	Plaintiff Sensocon, Inc.
Correspondence Address	CLIFFORD W BROWNING KRIEG DEVAULT LLP ONE INDIANA SQUARE, SUITE 2800 INDIANAPOLIS, IN 46204 UNITED STATES cbrowning@kdlegal.com, awarr@kdlegal.com
Submission	Request to Withdraw as Attorney
Filer's Name	Alastair J. Warr
Filer's e-mail	ipdocketing@kdlegal.com, awarr@kdlegal.com
Signature	/Alastair J. Warr/
Date	08/04/2015
Attachments	2015_08_04_motion withdraw.pdf(256517 bytes)

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

Cancellation No. 92053254

In the matter of U.S. Registration No. 3,397,050

For the trademark: PRODUCT CONFIGURATION DESIGN

Date Registered: March 18, 2008

SENSOCON, INC.

Petitioner

v.

DWYER INSTRUMENTS, INC.

Registrant-Respondent

**MOTION TO WITHDRAW AS
COUNSEL FOR PETITIONER**

Krieg DeVault LLP, pursuant to 37 C.F.R. §§ 2.19(b) and 11.116(b)(1), (5), and (6), respectfully moves to the Trademark Trial and Appeal Board to grant this motion to withdraw as counsel and representative to the Petitioner, Sensococon, Inc. in this Cancellation No. 92053254

In support of this Motion, Krieg DeVault LLP states:

1) Krieg DeVault LLP, by its former partner, Cliff Browning and subsequent lawyers (“Krieg DeVault”), filed a Trademark Cancellation Proceeding before the USPTO, Cancellation No. 92053254.

2) As a result of the pending litigation in the Northern District of Indiana, the U.S.P.T.O. Cancellation Proceeding has been suspended. As of April 21, 2015, the proceedings remain suspended pending final determination of the civil action. (See April 21, 2015 notice from the USPTO in this cancellation proceeding)

3) The reasons for this request to withdraw required by Rule § 2.19(b)(2) are:

a. Krieg DeVault withdrew from its representation of Sensacon in the Northern District of Indiana Litigation on January 23, 2014, well prior to Sensacon's Chapter 11 Bankruptcy Petition filed on July 22, 2014.

b. Krieg DeVault timely filed its Proof of Claim in Sensacon's bankruptcy case for unpaid prepetition legal fees.

c. Sensacon failed substantially to fulfill an obligation to Krieg DeVault regarding the its services and has been given reasonable warning that Krieg DeVault will withdraw unless the obligation is fulfilled. Rule § 11.116(b)(5).

d. The representation will result in an unreasonable financial burden on the practitioner. Rule § 11.116(b)(6).

4) On June 1, 2015, Krieg DeVault notified Sensacon's bankruptcy counsel of its intent to file the instant motion on June 30, 2015. (See Exhibit 1 attached). Krieg DeVault gave notice to Sensacon that it is withdrawing from employment and will be filing the necessary documents with the Office. Rule § 2.19(b)(3).

5) On June 2, 2015, Sensacon's bankruptcy counsel acknowledged receipt of the aforementioned notice letter and advised that he would consult with his client and determine what to do. As of the filing of this Motion, Krieg DeVault has had no further communication with Sensacon's bankruptcy counsel. (See exhibit 2 attached)

6) Krieg DeVault notified the client that there are no responses that may be due, and, therefore, the lack of the deadline for response. This proceeding has been suspended and there are no pending response dates applicable to Sensacon. Therefore, withdrawal can be accomplished without material adverse effect on the interests of Sensacon. Rule § 11.116(b)(1).

7) Krieg DeVault delivered to the client all documents and property in the practitioner's file concerning the proceeding to which the client is entitled.

8) Withdrawal can be accomplished without material adverse effect on the interests of Sensacon.

9) No part of a fee paid in advance has not been earned.

Wherefore, Krieg DeVault, LLP respectfully requests that the Board grant this motion, grant Krieg DeVault LLP leave to withdraw as counsel for Sensacon, Inc., and grant all other just and proper relief.

Respectfully submitted,

KRIEG DEVAULT LLP



Alastair J. Warr

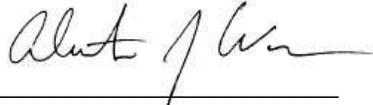
PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing, including exhibits, has been served on the client and every other party to the proceeding by placing the same in the United States Mail, first class postage prepaid addressed as follows:

Sensocon, Inc.
P.O. Box 518
Highland City, FL 33846

Jonathan P. Froemel
Barnes & Thornburg, LLP
P.O. Box 2786
Chicago, IL 60606

Pierce J. Guard, Jr.
The Guard Law Group, PLLC
2511 Orleans Ave.
Lakeland, FL 33803



Alastair J. Warr

June 1, 2015

C. Daniel Motsinger
Direct Dial: (317) 238-6237
E-mail: cmotsinger@kdlegal.com
Board Certified - Business Bankruptcy
American Board of Certification*

VIA EMAIL: *jguardjr@aol.com*

Pierce J. Guard, Jr.
The Guard Law Group, PLLC
2511 Orleans Ave.
Lakeland, FL 33803

RE: *Dwyer Instruments, Inc. vs. Sensoco, Inc. and Tony E. Kohl*
Northern District of Indiana, Case No. 3:09-cv-10-TLS
U.S.P.T.O. – Trademark Cancellation Proceeding No. 92053254
Sensocon, Inc. vs Dwyer Instruments, Inc.
Our Ref.: SNSO-3

Dear Mr. Guard:

We are writing you in your capacity as counsel for Sensoco, Inc. (“Sensoco”), debtor and debtor-in-possession in *In re Sensoco, Inc.*, Case No. 8:14-bk-08426-KRM (Bankr. M.D. Fla., Tampa Div.).

As you may be aware, our firm, Krieg DeVault LLP, by its former partner, Cliff Browning and subsequent lawyers (“Krieg DeVault”), filed a Trademark Cancellation Proceeding before the USPTO, Cancellation No. 92053254. As a result of the pending litigation in the Northern District of Indiana, the U.S.P.T.O. Cancellation Proceeding has been suspended. As of April 21, 2015, the proceedings remain suspended pending final determination of the civil action. (See attached notice from the U.S.P.T.O.)

Krieg DeVault withdrew from its representation of Sensoco in the Northern District of Indiana Litigation on January 23, 2014, well prior to Sensoco’s Chapter 11 Bankruptcy Petition filed on July 22, 2014. Krieg DeVault timely filed its Proof of Claim in Sensoco’s bankruptcy case for unpaid prepetition legal fees. Pursuant to its withdrawal of its representation of Sensoco in the Northern District of Indiana case, Krieg DeVault will be seeking to withdraw from its representation of

*Note - the Supreme Court of Illinois does not recognize certifications of specialties in the practice of law and this certificate is not a requirement to practice law in Illinois.

Pierce J. Guard, Jr.
June 1, 2015
Page 2

Sensocon in the USPTO cancellation proceeding. We will file the withdrawal documents on June 30, 2015. The purpose of this letter is to provide Sensocon with 30 days' notice of our intent to withdraw, so that it may engage replacement counsel for the USPTO proceeding if it so desires.

Very truly yours,

KRIEG DeVAULT LLP®

A handwritten signature in black ink that reads 'Dan Motsinger'.

C. Daniel Motsinger

CDM/kf
Attachment

Cc w/att.: Alberto F. Gomez, Jr. (al@ipfirm.com)
Jonathan P. Froemel (jfroemel@btlaw.com)
Mark J.R. Merkle (mmerkle@kdlegal.com)
Alastair J. Warr (awarr@kdlegal.com)

SNSO-3
CES/GBC/CES

RECEIVED
IP DOCKETING

MAR 24 2015

DOCKETED BY: eeW
RPT: _____
DUE: 4-17-15

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

Mailed: March 17, 2015

Cancellation No. 92053254

Sensocon, Inc.

v.

Dwyer Instruments, Inc.

Amy Matelski, Paralegal Specialist:

The parties are allowed until thirty days from the mailing date of this order in which to inform the Board of the status of the civil action which occasioned the suspension of this proceeding. If no response to this order is received from either party, the Board will resume proceedings and reset dates, as appropriate.

Proceedings otherwise remain suspended pending a response to this order.

[REDACTED]

From: C. Daniel Motsinger
Sent: Tuesday, June 02, 2015 4:41 PM
To: 'jguardjr@aol.com'
Subject: RE: In re Sensococon - Krieg DeVault LLP withdrawal from representation of Sensococon, Inc., from before U.S.P.T.O. – Trademark Cancellation Proceeding No. 92053254

Mr. Guard:

Thanks. Best regards –

Dan

Board Certified - Business Bankruptcy - American Board of Certification. Note - the Supreme Court of Illinois does not recognize certifications of specialties in the practice of law and this certificate is not a requirement to practice law in Illinois.

From: jguardjr@aol.com [<mailto:jguardjr@aol.com>]
Sent: Tuesday, June 02, 2015 4:40 PM
To: C. Daniel Motsinger
Subject: Re: In re Sensococon - Krieg DeVault LLP withdrawal from representation of Sensococon, Inc., from before U.S.P.T.O. – Trademark Cancellation Proceeding No. 92053254

Mr. Motsinger:

Thanks for the heads up. I will talk with my client and determine what they wish to do.

Pierce Guard, Jr.

-----Original Message-----

From: C. Daniel Motsinger <cmotsinger@kdlegal.com>
To: 'jguardjr@aol.com' <jguardjr@aol.com>
Cc: 'al@ipfirm.com' <al@ipfirm.com>; 'jfroemel@btlaw.com' <jfroemel@btlaw.com>; Mark J.R. Merkle <mmerkle@kdlegal.com>; Alastair J. Warr <awarr@kdlegal.com>
Sent: Mon, Jun 1, 2015 12:37 pm
Subject: In re Sensococon - Krieg DeVault LLP withdrawal from representation of Sensococon, Inc., from before U.S.P.T.O. – Trademark Cancellation Proceeding No. 92053254

Mr. Guard:

Please see the attached letter and its attachment, and advise if you have any questions.

Best regards –

Dan

Board Certified - Business Bankruptcy - American Board of Certification. Note - the Supreme Court of Illinois does not recognize certifications of specialties in the practice of law and this certificate is not a requirement to practice law in Illinois.

C. Daniel Motsinger

Partner

Krieg DeVault LLP

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