

ESTTA Tracking number: **ESTTA570609**

Filing date: **11/13/2013**

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

Proceeding	92057365
Party	Plaintiff Caprico USA LLC
Correspondence Address	JOHN CYRIL MALLOY III MALLOY & MALLOY PL 2800 SW THIRD AVENUE MIAMI, FL 33129 UNITED STATES jcmalloy@malloylaw.com, fferreiro@malloylaw.com, litigation@malloylaw.com
Submission	Other Motions/Papers
Filer's Name	Francisco J. Ferreiro
Filer's e-mail	fferreiro@malloylaw.com, jcmalloy@malloylaw.com, litigation@malloylaw.com
Signature	/Francisco J. Ferreiro/
Date	11/13/2013
Attachments	Amended Withdrawal of Cancellation.pdf(560654 bytes)

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

In the matter of Registration No. 3,870,044
For the mark "RADIANT GLOW"

CAPRICO USA LLC,)
)
)
Petitioner,)
)
vs.) Cancellation No. 92057365
)
TRACIE MARTYN INTERNATIONAL, LLC)
)
)
Registrant.)
_____)

AMENDED WITHDRAWAL OF CANCELLATION WITHOUT PREJUDICE

COMES NOW the Petitioner, Caprico USA LLC ("Petitioner") and, with Registrant's written consent, hereby withdraws its pending Petition to Cancel Registration No. 3,870,044 without prejudice. As required by the Board (DE #12), Petitioner has attached an email from Registrant's counsel, dated October 21, 2013, consenting to withdrawal of the subject petition without prejudice.

Respectfully submitted,

Dated: November 13, 2013

By: /Francisco J. Ferreiro/
John Cyril Malloy, III
Florida Bar No. 964,220
jcmalloy@malloylaw.com
Francisco J. Ferreiro
Florida Bar No. 37,464
fferreiro@malloylaw.com
MALLOY & MALLOY, P.L.
Attorneys for Petitioner
2800 S.W. Third Avenue
Miami, Florida 33129
Telephone: (305) 858-8000
Facsimile: (305) 858-0008

CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing document was filed electronically via the ESTTA, at the United States Patent and Trademark Office, Trademark Trial and Appeal Board, web site, www.uspto.gov, this 13th day of November 2013.

By: Francisco J. Ferreiro/
Francisco J. Ferreiro

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing document has been served on the following by mailing said copy on November 13, 2013, via First Class Mail, postage prepaid to:

Kathryn Jennison Shultz, Esq.
JENNISON & SHULTZ, P.C.
2001 Jefferson Davis Highway, Suite 1102
Arlington, Virginia 22202

By: Francisco J. Ferreiro/
Francisco J. Ferreiro

Francisco Ferreiro

From: Kathryn Jennison Shultz [kjs@jennisonlaw.com]
Sent: Monday, October 21, 2013 3:57 PM
To: Francisco Ferreiro
Subject: RE: Caprico USA LLC v. Tracie Martin International, LLC - Our Ref.: 5.896.13

Francisco,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] You have our consent to the withdrawal.

Best regards,

Kathryn

Kathryn Jennison Shultz
Jennison & Shultz, P.C.
2001 Jefferson Davis Highway, Suite 1102 Arlington, Virginia 22202
Telephone: (703) 415-1640
Fax: (703) 415-0788
Email: kjs@jennisonlaw.com

On 2013-10-21 12:34, Francisco Ferreiro wrote:

> Dear Kathryn:

>
> Please advise if your client has come to any decision regarding this
> matter.

>
> Kindest Regards,

>
> [1]

> TWITTER: <http://Twitter.com/FJFerreiro> [2]

>
> BLOG: <http://MalloyLaw.com/blog> [3]

>
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> fferreiro@malloylaw.com.

>
> -----Original Message-----

> From: Kathryn Jennison Shultz [mailto:kjs@jennisonlaw.com]

> Sent: Thursday, October 10, 2013 2:31 PM

> To: Francisco Ferreiro

> Subject: RE: Caprico USA LLC v. Tracie Martin International, LLC -

> Our Ref.: 5.896.13

>
> Francisco,

>

EXHIBIT A

Francisco Ferreiro

From: Francisco Ferreiro
Sent: Tuesday, October 08, 2013 10:41 AM
To: 'Kathryn Jennison Shultz'
Cc: Maritza Cabello; John Cyril Malloy III
Subject: RE: Caprico USA LLC v. Tracie Martin International, LLC - Our Ref.: 5.896.13

Dear Ms. Shultz:

[REDACTED]. Given the foregoing, our client has considered its options and is currently amenable to withdrawing the above-referenced action without prejudice. As this is the most cost-efficient option for both parties, please advise if your client would consent to same. Absent the foregoing, our client would likely continue to pursue this action pending a final decision regarding its use of "RADIGLOW."

Kindest Regards,

Francisco J. Ferreiro
Board Certified in
Intellectual Property Law
Malloy & Malloy, P.L.
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**Malloy &
Malloy, P.L.**

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

From: Kathryn Jennison Shultz [<mailto:kjs@jennisonlaw.com>]
Sent: Tuesday, August 27, 2013 12:31 PM