

ESTTA Tracking number: **ESTTA28643**

Filing date: **03/20/2005**

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

<b>Proceeding</b>	91163772
<b>Party</b>	Plaintiff THE KONG COMPANY ,
<b>Correspondence Address</b>	BRENT P. JOHNSON SHERIDAN ROSS PC 1560 BROADWAY, SUITE 1200 DENVER, CO 80202
<b>Submission</b>	Stipulated Joint Motion for Entry of Withdrawal With Prejudice and Showing of Cause Why Judgement of Default Should Not Be Entered
<b>Filer's Name</b>	Brent P. Johnson
<b>Filer's e-mail</b>	<a href="mailto:bjohnson@sheridanross.com">bjohnson@sheridanross.com</a>
<b>Signature</b>	/Brent P. Johnson/
<b>Date</b>	03/20/2005
<b>Attachments</b>	jointmotion.pdf ( 2 pages ) noticeofwithdrawal.pdf ( 2 pages )

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

In the Matter of Application Serial No. 78/373,485  
Filed February 24, 2004

The Kong Company, LLC	)	<b>Opposition No. 91163772</b>
	)	
Opposer,	)	
	)	
v.	)	
	)	
Next Proteins, Inc.	)	
	)	
Applicant.	)	

STIPULATED JOINT MOTION FOR ENTRY OF NOTICE OF WITHDRAWAL  
WITH PREJUDICE AND SHOWING OF CAUSE WHY JUDGEMENT  
OF DEFAULT SHOULD NOT BE ENTERED

The Trademark Trial and Appeal Board issued a Notice of Default against the Applicant for failure to file an Answer by the deadline of February 21, 2005.

The Applicant and Opposer have been actively pursuing settlement, and in connection therewith, filed simultaneously herewith is a Notice of Withdrawal of Opposition With Prejudice, and a copy of the Assignment whereby the Applicant has assigned all right, title and interest in and to the application Serial No. 78/373,485 to the Opposer.

Applicant and Opposer have also entered into a separate Settlement Agreement which fully and finally resolves all issues surrounding the present Opposition proceeding.

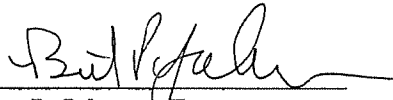
It is respectfully requested by the parties that the Notice of Default be withdrawn, and in lieu thereof, the Notice of Withdrawal With Prejudice be entered. The failure by the Trademark Trial and Appeal Board to enter the Notice of Withdrawal With Prejudice will force the parties to restart settlement negotiations to resolve all issues surrounding the present Opposition, and thereby will unnecessarily disturb the settlement already achieved by the parties.

WHEREFORE, Opposer and Applicant respectfully request that the Notice of Withdrawal of Opposition With Prejudice be entered, and that the Notice of Default be withdrawn.

Respectfully submitted,

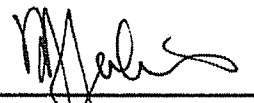
SHERIDAN ROSS P.C.

Dated: 3/18/05

By:   
Brent P. Johnson, Esq.  
1560 Broadway, Suite 1200  
Denver, Colorado 80202-5141  
(303) 863-9700

Attorneys for Opposer  
The Kong Company, LLC

Dated: 3.17.05

By:   
David Jenkins, President  
Next Proteins, Inc.  
2283 Cosmos Court  
Carlsbad, California 92009

Attorneys for Applicant  
Next Proteins, Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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Opposer,	)	
	)	
v.	)	
	)	
Next Proteins, Inc.	)	
	)	
Applicant.	)	

NOTICE OF WITHDRAWAL OF OPPOSITION WITH PREJUDICE


The Opposer, The Kong Company, LLC, hereby withdraws its opposition with prejudice. There has been no Answer filed by the Applicant. This Withdrawal is filed in accordance with a Settlement Agreement executed by the parties.

Among other representations made by the parties within the Settlement Agreement, Applicant has assigned all right, title, and interest in and to the Application Serial No. 78/373,485 to the Opposer. Attached hereto at Exhibit A is a copy of the Assignment.

WHEREFORE, Opposer respectfully requests that this Notice of Withdrawal be entered, and that the Opposition be dismissed with prejudice.

Respectfully submitted,

SHERIDAN ROSS P.C.

By:   
Brent P. Johnson, Esq.  
1560 Broadway, Suite 1200  
Denver, Colorado 80202-5141  
(303) 863-9700

Dated: 3/18/05

Attorneys for Opposer  
The Kong Company, LLC

**TRADEMARK ASSIGNMENT**

This is an Assignment by Next Proteins, Inc., a California corporation, ("ASSIGNOR") having an address of 2283 Cosmos Court, Carlsbad, California 92009, to The Kong Company, LLC, a Colorado limited liability company, ("ASSIGNEE") having an address of 16191-D Table Mountain Parkway, Golden, Colorado 80403.

WHEREAS, ASSIGNOR is the owner of the U.S. Trademark Application Serial No. 78/373,485 for the mark "KONG";

NOW, THEREFORE, in consideration of certain good and valuable consideration given to ASSIGNOR, the receipt and sufficiency of which is hereby acknowledged, ASSIGNOR does hereby grant, transfer, assign and convey unto The Kong Company, LLC, its entire right, title and interest in and to the U.S. Trademark Application Serial No. 78/373,485 for the mark "KONG".

IN WITNESS WHEREOF, ASSIGNOR has caused this Trademark Assignment to be duly executed on its behalf as provided for below.

Next Proteins, Inc.

Date: 3.17.05

By: 

Name: David Jenkins

Title: President