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

Proceeding	91187466
Party	Defendant YamaBuggy LLC, John Wang
Correspondence Address	Johnny F. Manriquez PO Box Q Del Mar, CA 92014 UNITED STATES yamajw@gmail.com, johnnyFRM@aol.com
Submission	Request to Withdraw as Attorney
Filer's Name	Johnny Manriquez
Filer's e-mail	JohnnyFRM@aol.com
Signature	/Johnny Manriquez/
Date	02/13/2009
Attachments	YamabuggyTTAB Withdrawal.pdf (6 pages)(157494 bytes)

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

**In the Matter of Trademark Application Ser. No. 77/263,189
For the Mark YAMABUGGY
Published in the *Official Gazette* on July 15, 2008**

**YAMAHA HATSUDUKI KABUSHIKI
KAISHA and YAMAHA MOTOR
CORPORATION, U.S.A.**

Opposers,

v.

**YAMABUGGY LLC AND JOHN
WANG**

Applicants.

**REQUEST FOR PERMISSION TO
WITHDRAW AS ATTORNEY OF
RECORD BY APPLICANT'S
ATTORNEY**

**REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD
BY APPLICANT'S ATTORNEY
(As permitted by 37 CFR § 10.40)**

I hereby apply to withdraw as attorney for the above identified application. The reasons for the request are as follows:

STATUTORY BASIS FOR WITHDRAWAL

According to 37 CFR § 10.40 (last updated January 16, 2009), a practitioner may not withdraw from employment in a proceeding before the Office without permission. If withdrawal is not mandatory for the reasons outlined in 37 CFR § 10.40(b), then a practitioner may seek permissive withdrawal as allowed in 37 CFR § 10.40(c). In this case, applicant's attorney seeks permissive withdrawal as allowed in 37 CFR § 10.40(c)(1)(iv) and 37 CFR § 10.40(c)(1)(vi), respectively.

APPLICATION OF PERMISSIVE WITHDRAWAL

As indicated above, Applicant's attorney seeks permissive withdrawal from the above matter. Permissive withdrawal is necessary for two reasons:

1) Under 37 CFR § 10.40(c)(1)(iv), the federal rules allow practitioner permissive withdrawal when [Applicant's] conduct renders it unreasonably difficult for the

practitioner to carry out the employment effectively. In this case, practitioner has made numerous attempts to engage applicant in delivering documentation and materials necessary for discovery proceedings with opposing counsel. Practitioner has made repeated efforts to ask for discovery related materials, documents, key contacts, etc. in order to elicit evidence to support applicant's position. In order to preserve applicant's rights and not prejudice its case, applicant has contacted opposing counsel and informed her of his need to extend the discovery timeline. In this instance, the discovery conference deadline was set by the Board for February 11, 2009; however, Applicant's lack of cooperation has crippled practitioner's efforts to engage in a meaningful conference. In order to preserve the applicant's rights while seeking permissive withdrawal, practitioner has drafted and filed a stipulation consenting to the extension of the discovery conference timeline (extended pending the Board's decision to March 4, 2009) and to not present an undue burden on the Board and opposing counsel due to lack of evidentiary preparation. In light of these facts, practitioner respectfully requests that the Board consider such efforts as evidence to not prejudice the applicant's rights and to allow practitioner to withdraw from this matter.

2) Under 37 CFR § 10.40(c)(1)(vi), the federal rules allow practitioner permissive withdrawal when there is failure to pay one or more bills rendered by practitioner. In this case, practitioner has submitted multiple bills for services to date. Applicant has made misrepresentations of fact regarding payment status, payment mailing, and delivery. Practitioner has also made numerous phone calls and inquiries regarding payment status only to incur more costs and delay. Given the payment history and the upcoming trial costs, it would be unreasonable for practitioner to continue rendering legal services without prompt payment. For the stated reasons, practitioner respectfully asks that the Board grant his request for permissive withdrawal.

ADDITIONAL REQUIREMENTS FOR WITHDRAWAL

According to 37 CFR § 10.40(a), a request for permission should also include: (1) a specification of the basis for the request; (2) a statement that the practitioner has notified the client of his or her desire to withdraw from employment, and has allowed time for employment of another practitioner; (3) a statement that all parties and property that relate to the proceeding and to which the client is entitled have been delivered to the client; (4) if any part of a fee paid in advance has not been earned, a statement that unearned payment has been refunded; and (5) proof of service of the request upon the client and upon every other party in the proceeding.

As outlined above, practitioner has set out the statutory basis for permissive withdrawal in the given matter. Practitioner has avoided foreseeable harm to the applicant by contacting opposing counsel, drafting and filing a stipulation to consent to extend discovery and apprising applicant of its need to appoint new counsel. Practitioner has informed applicant of the urgency to appoint new counsel or inform the Board of its desire to represent itself and the resulting consequences if neither course of action is taken as indicated in TBMP 500-65. Practitioner has hand delivered, emailed (according

to the email address that applicant has registered with the USPTO) and mailed his stated desire to withdraw for employment. Practitioner has forwarded all communications and correspondence between the USPTO and opposing counsel to the client. Practitioner has not been paid any advanced or unearned fees in this matter. Practitioner has apprised all parties in this matter of his intention and request to withdraw as attorney.

FUTURE CORRESPONDENCE

All future correspondence should be directed to: Yamabuggy, LLC c/o John Wang, 374 Encinitas Blvd., Encinitas, CA 92024 (as filed in the USPTO database), yamajaw@gmail.com

REQUEST FOR PERMISSIVE WITHDRAWAL

For the following reasons, Applicant's attorney, Johnny Manriquez, respectfully requests permissive withdrawal from this matter.

Johnny F. Manriquez
PO Box Q
Del Mar, CA 92014
(619) 246-3033
JohnnyFRM@aol.com

By: s/ Johnny F. Manriquez

I, JOHNNY F. MANRIQUEZ, on the Trademark Trial and Appeals Board's Electronic System for Trademark Trials and Appeals am the user who has filed this REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD BY APPLICANT'S ATTORNEY.

Dated: February 13, 2009

Johnny F. Manriquez
PO Box Q
Del Mar, CA 92014
(619) 246-3033
JohnnyFRM@aol.com
By: s/ Johnny F. Manriquez

Johnny F. Manriquez
Attorney for Applicants

EXHIBIT 1

**Johnny F.R. Manriquez
PO Box Q
Del Mar, CA 92014**

February 11, 2009

Yamabuggy, LLC
Attention: John Wang
1555 South Coast Highway Ste. C
Oceanside, CA 92054
MAILED AND HAND DELIVERED

Re: Trademark Trials and Appeal Board ("TTAB") Proceeding 91187466 (Yamabuggy)

Mr. Wang:

I am writing to apprise you of the scheduled discovery conference before the TTAB on February 11, 2009. Currently, I have not received any evidentiary materials from you to support our case before the TTAB.

The current discovery conference with opposing counsel mandates both parties to be prepared to discuss discovery procedure, strategy and intended protocol. To date, I have not received any evidentiary materials from you in order to effectively engage in discovery with opposing counsel. Despite your promises and assurances, I have not received any tangible evidence from you for the benefit of Yamabuggy's position before the TTAB. As mentioned to you before, we need hard evidence as opposed to opinion, hearsay, or mere conjecture in order to advance discovery proceedings and to make solid arguments in favor of our position.

Your lack of cooperation in this matter cripples my efforts as counsel and ultimately harms Yamabuggy, LLC. Not having received any evidence whatsoever in this case makes it impossible to engage in discovery proceedings with opposing counsel. Moreover, I forwarded you by email on December 22, 2008 the TTAB notification that we had regarding discovery deadlines as set by the Board (See Enclosure). In addition, you have failed to designate me as attorney of record for Yamabuggy, LLC. This is one more example of your failure to assist in the prosecution of your case. As such, I cannot represent Yamabuggy, LLC in the method and manner that would best represent its interest.

In light of these facts, I have contacted opposing counsel, Jennifer Lantz of Haynes Boone LLP (2033 Gateway Pl., Ste. 400, San Jose, CA 95110) and she has agreed to a stipulated extension of time to meet for a discovery conference. I have written to opposing counsel confirming our intention to extend the discovery conference via stipulation (See Enclosure). If granted by the Board, the

discovery conference would be on March 4, 2009. Jennifer Lantz may be contacted at (408) 392-9250 or by email at Jennifer.Lantz@haynesboone.com. I have enclosed a copy of the stipulation as filed today, February 11, 2009 (See Enclosure).

To further complicate matters, your history of delaying payment during the course of prosecuting this case has resulted in nothing but broken promises from you to timely remit payment. Engaging in discovery, preparing reply briefs, and making valiant efforts to defend against this opposition before the TTAB takes considerable economic resources. I have not been advanced any retainer to work against, and I have repeatedly stated to you that I do not represent clients on a contingency basis.

For the reasons stated above, I cannot move forward in representing Yamabuggy, LLC in this matter. I have drafted a request to withdraw as counsel (See Enclosure) with the TTAB Board and if granted, you may receive a period of time (usually 30 days) to appoint a new attorney.¹ If you choose to represent yourself, you need to file a paper with the Board to inform them of your intentions.² Failure to take these indicated actions can have severe penalties. In that, "***the Board may issue an order to show cause why default judgment should NOT [emphasis added] be entered against the party based on the party's apparent loss of interest in their case*** [bold and italics added for emphasis]."³ John, I would not delay in either appointing new counsel or indicating your intention to represent your self because the neglect of these duties could strongly harm your case before the TTAB. In the meantime, I would suggest retaining competent counsel in this matter.

Included with this letter is a billing statement (See Enclosure) for all above services and this letter will serve as a demand for immediate payment.

Best regards,

Johnny Manriquez, Esq.

Enclosures:

- 1) December 22, 2008 TTAB Notice for Discovery Timelines;
- 2) Stipulation to Extend Discovery Conference;
- 3) Letter to Opposing Counsel;
- 4) Request to TTAB to withdraw as counsel; and
- 5) Final Billing Statement

¹ Trademark Trial and Appeal Board Manual of Procedure 500-65.

² Ibid.

³ Ibid.

PROOF OF SERVICE (IN ACCORDANCE WITH § 113)

I hereby certify that a true and complete copy of the foregoing request for permission to withdraw as attorney of record by applicant's attorney has been served on Jennifer M. Lantz by mailing said party on February 14, 2009, via First Class Mail and as allowed by 37 CFR § 2.119(b), postage prepaid to: Haynes & Boone, LLP, Attention: Jennifer M. Lantz, 2033 Gateway Place, Ste. 400, San Jose, CA 95110. In addition, applicant has been served by hand delivery a true and complete copy of said foregoing request on February 12, 2009.

Dated: February 13, 2009

Johnny F. Manriquez

PO Box Q
Del Mar, CA 92014
(619) 246-3033
JohnnyFRM@aol.com
By: s/ Johnny F. Manriquez

Johnny F. Manriquez
Attorney for Applicants