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

Proceeding	91197368
Party	Plaintiff Primo Hospitality Group, Inc.
Correspondence Address	JOSEPH A LOPEZ NOVIAN & NOVIAN LLP 1801 CENTRURY PARK EAST, SUITE 1201 LOS ANGELES, CA 90067 UNITED STATES joseph@novianlaw.com
Submission	Request to Withdraw as Attorney
Filer's Name	Joseph A. Lopez
Filer's e-mail	joseph@novianlaw.com
Signature	/Joseph A. Lopez/
Date	01/19/2011
Attachments	Withdrawal As Attorney.pdf (4 pages)(27439 bytes)

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

PRIMO HOSPITALITY GROUP, INC. Opposer, v. THREE GRAY SQUIRRELS VENTURES, LLC Applicant.

Opposition No. 91197368

Serial Nos. 85016230
85016267
85017252

MOTION TO WITHDRAW AS ATTORNEY PURSUANT TO 37 C.F.R. § 2.19

AND 10.40

Novian & Novian, LLP (“Novian”) hereby moves to withdraw as legal representative for Primo Hospitality Group, Inc. (“Opposer”) in the above-captioned consolidated opposition proceedings (the “Opposition”).

Novian moves for permissive withdrawal pursuant to 37 C.F.R. § 10.40(c)(1)(iv) and (vi) because Opposer “[b]y [its]...conduct [or lack thereof] renders it unreasonably difficult for the practitioner to carry out employment effectively” and “has failed to pay one or more bills rendered by practitioner for an unreasonable period of time.”

Specially, Novian’s reasons for moving to withdraw are as follows:

Novian has communicated with the two principals of Opposer regarding litigation strategy with respect to the Opposition. The specific details of these communications, and the actual communications themselves, are withheld under the attorney-client privilege. However, in essence, Novian has received instructions from one principal in various instances, attempted to carry forth those instructions, only to be told by the other

principal that those instructions should be ignored and Novian should carry forward with a separate course of action. The principals have thus disagreed on litigation strategy and failed to provide Novian with clear instructions. Novian cannot in good faith prosecute an action without clear consent from the client. Due to the inability of the principals to agree on a course of action, Novian cannot perform its duties without entering into a potential conflict and therefore seeks to withdraw its representation.

Opposer has additionally been in arrears in payment to Novian on a variety of trademark matters totaling approximately twenty thousand dollars (\$20,000) or more. Novian has had to front costs related to these various trademark matters, including the instant Opposition, and has had past due invoices go unpaid for a number of months. Despite multiple communications on the matter, Opposer has nonetheless failed to come current on its past due payments.

In compliance with 37 C.F.R. § 10.40(a), Novian has taken reasonable steps to avoid foreseeable prejudice to the rights of Opposer, including multiple communications via telephone and electronic mail. Regardless of these communications, the principals of Opposer have failed to agree on how best to carry forth the instant Opposition, and the past due balance remains in arrears. Novian therefore cannot perform its duties without entering into a potential conflict of interest and has also failed to receive compensation pursuant to agreement. Novian therefore informed Opposer by electronic mail that it would no longer be able to represent Opposer with respect to this Opposition proceeding. Novian has thus far received no response to this communication. Novian has delivered unto Opposer all relevant papers and property to which Opposer is entitled. There is no

part of a fee paid in advance that would be refundable to Opposer. Finally, Novian has complied with all applicable laws and rules.

Accordingly, for the foregoing reasons, and having taken all reasonable steps to avoid prejudice to the rights of Opposer, Novian hereby respectfully requests approval of this motion to withdraw pursuant to 37 C.F.R. § 2.19 and 10.40.

/Joseph A. Lopez/
JOSEPH A. LOPEZ
Attorney for Opposer
Novian & Novian, LLP
1801 Century Park East
Suite 1201
Los Angeles, CA 90067
Phone: (310) 553-1222
Fax: (310) 553-0222
joseph@novianlaw.com

Dated: January 19, 2011

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing MOTION TO WITHDRAW was served on January 19, 2011 as follows:

TO APPLICANT VIA FIRST CLASS MAIL

Three Gray Squirrels Ventures, LLC DBA JavaPrimo
4429 Central Avenue, Suite A
Hot Springs ARKANSAS 71913

Joe D Calhoun
Calhoun Law Firm
Po Box 251504
Little Rock, AR 72225-1504

TO OPPOSER VIA FIRST CLASS MAIL

Primo Hospitality Group, Inc.
15728 NE 119th Court
Redondo, WA 98052

Primo Hospitality Group, Inc.
1801 Ave. of the Stars # 420
Los Angeles, CA 90067

/Claire Paterson/
CLAIRE PATERSON
Paralegal