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

Proceeding	91204178
Party	Plaintiff Mainstream Engineering Corp.
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Date	06/11/2012
Attachments	QWIKAVERAGE - Response in Opposition to Counsel Request to Withdraw - 6.11.12-final.pdf (4 pages)(163598 bytes)

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

Mainstream Engineering Corp., a
Florida corporation,
Opposer,

v.

Tasseron Sensors, Inc., a Delaware
corporation,
Applicant.

Opposition No.: 91204178
Application Serial No.: **85/245,732**

Date of Publication: February 14, 2012
Mark: **QWIKAVERAGE**

**OPPOSER'S RESPONSE IN OPPOSITION TO APPLICANT'S COUNSEL'S
REQUEST FOR PERMISSION TO WITHDRAW AS ATTORNEY OF RECORD**

Pursuant to 37 CFR § 2.127(a), Opposer, Mainstream Engineering Corp. ("Opposer"), hereby opposes the withdrawal of Applicant's attorney, Rebecca A. Finkenbinder, as counsel of record.

As grounds for opposition, Opposer states:

1. On March 7, 2012, Opposer filed its Notice of Opposition [DE 1], thereby initiating the instant action.

2. Several days before Applicant's deadline to file an Answer (April 16, 2012), Ms. Finkenbinder called counsel for Opposer to ask for an extension of time to file an Answer. Opposer consented and Applicant filed its Motion for an Extension of Answer or Discovery or Trial Periods with Consent [DE 4]. The Board granted Applicant's Motion and extended Applicant's deadline to file an Answer to May 16, 2012.

3. On May 15, 2012, counsel for Applicant sent a letter to counsel for Opposer requesting an additional 60-day extension of time to file an Answer. As

Opposer had consented to Applicant's first request for an extension of time as a result of Applicant's proposal that the parties explore the possibility of settlement, and as Applicant subsequently made no effort to engage in any such settlement discussions with Opposer, Opposer respectfully declined to consent to Applicant's second request for an extension of time to file an Answer.

4. After learning that Opposer was unwilling to consent to an additional extension of time, Applicant filed its Answer on May 16, 2012 [DE 6]. Less than ten days later, Ms. Finkenbinder filed her Request for Permission to Withdraw as Attorney of Record [DE 7].

5. As the granting of Ms. Finkenbinder's Request would result in a 30-day suspension of the present action, the Request is improper because "a request to withdraw from representation may not be used as a subterfuge to obtain an extension or reopening of time that a party would not otherwise be entitled to." TBMP § 513.01; SFW Licensing Corp. and Shoppers Food Warehouse Corp. v. Di Pardo Packing Limited, 60 USPQ2d 1372 (T.T.A.B. 2001). In other words, Ms. Finkenbinder's Request is improper because it is apparent that Ms. Finkenbinder intended to file her Request regardless of whether Opposer agreed to consent to a second extension of time for Applicant to file an Answer. As such, her Request constitutes a dilatory tactic that unfairly prejudices Opposer by causing further delay and preventing the timely resolution of the current Opposition.

PRAYER FOR RELIEF

WHEREFORE, Opposer respectfully requests that the Board deny Ms. Finkenbinder's Request for Permission to Withdraw as Attorney of Record to the extent that such withdrawal will result in the extension of any pre-trial and/or trial dates.

Date: June 11, 2012

Respectfully submitted,

LOTT & FISCHER, PL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing **RESPONSE IN OPPOSITION** was served upon Applicant by delivering true and correct copies of same to Applicant and Attorney of Record for Applicant via Federal Express on June 12, 2012 as follows:

Tasseron Sensors, Inc.
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