

ESTTA Tracking number: **ESTTA805845**

Filing date: **03/08/2017**

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

| | |
|------------------------|--|
| Proceeding | 91228032 |
| Party | Defendant Midway Rent A Car, Inc. |
| Correspondence Address | FARAH P BHATTI BUCHALTER NEMER 18400 VON KARMAN AVE STE 800 IRVINE, CA 92612 UNITED STATES trademark@buchalter.com, fbhatti@buchalter.com |
| Submission | Motion for Relief from entry of Final Judgment - Rule 60 |
| Filer's Name | Farah P. Bhatti |
| Filer's e-mail | fbhatti@buchalter.com, trademark@buchalter.com |
| Signature | /fbhatti/ |
| Date | 03/08/2017 |
| Attachments | Motion For Relief From Judgment.pdf(97203 bytes) Opposition 91228032 Motion to Withdraw Application with Consent.pdf(560136 bytes) |

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

| | |
|---------------------------------|--------------------------|
| eHARMONY, Inc. | |
| Opposer | Opposition No.: 91228032 |
| v. | Serial No.: 85/750545 |
| MIDWAY RENT A CAR, INC., | Mark: CAR HARMONY |
| Applicant | |

MOTION FOR RELIEF FROM FINAL JUDGMENT

COMES NOW, Applicant Midway Rent A Car, Inc. (“Applicant”) by and through its undersigned attorneys and pursuant to Federal Rule of Civil Procedure 60(b)(1), 60 (b)(6), 55(c), 6(b) and 37 C.F.R. §2.116(a) hereby files this Motion for Relief from Judgment entered March 6, 2017 and states the following as grounds:

1. On February 27, 2017, Applicant had filed a Request to Withdraw the Opposition with Consent of Opposer. Opposer did not sign the Consent, but the document specifically provided that Opposer’s consent had been obtained.
2. On March 6, 2017, the Panel issued an Order sustaining the Opposition in favor of Opposer.
3. The undersigned contacted the interlocutory attorney, Geoffrey McNutt, to inquire why the opposition was sustained instead of withdrawn given Opposer’s consent to the abandonment of Applicant’s application. Mr. McNutt suggested the filing of this Motion.
4. Applicant is filing this Motion for Relief from Final Judgment along with a Consent to Withdraw signed by both Applicant’s Counsel and Opposing Counsel and requests that the Board’s decision sustaining the opposition be withdrawn, and the Opposition be terminated per the parties request in the Consent to Withdraw.

WHEREFORE, Applicant respectfully requests that the judgment entered on March 6, 2017 be vacated and that the opposition be withdrawn.

Dated: March 8, 2017

Respectfully Submitted,

/fbhatti/

Farah P. Bhatti

Attorney for Applicant

BUCHALTER NEMER

18400 Von Karman Ave., Suite 800

Irvine, California 92612

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Email: fbhatti@buchalter.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **MOTION FOR RELIEF FROM FINAL JUDGMENT** has been served on opposing counsel via U.S. first class mail and e-mail on the 8th day of March, 2017 to:

Lisa Greenwald-Swire
Fish & Richardson PC
PO Box 1022
Minneapolis, MN 55440
Greenwald-Swire@fr.com

/fbhatti/

Farah P. Bhatti

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

eHARMONY, Inc.

Opposer

v.

MIDWAY RENT A CAR, INC.,

Applicant

Opposition No.: 91228032

Serial No.: 85/750545

Mark: CAR HARMONY

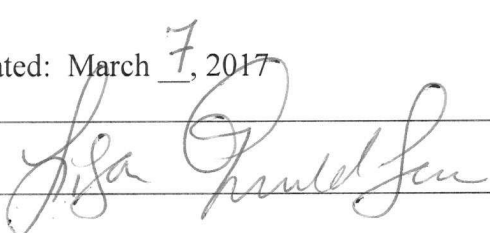
MOTION TO WITHDRAW APPLICATION WITH CONSENT

Applicant, by and through its attorney and pursuant to 37 CFR § 2.68, hereby expressly abandons Serial No. 86750545, for the mark CAR HARMONY without prejudice. Applicant has secured the consent of opposing counsel for withdrawal of the application.

Applicant requests that the application be withdrawn and the opposition be terminated.

Dated: March 7, 2017

Respectfully Submitted,



Lisa Greenwald-Swire
Fish & Richardson PC
PO Box 1022
Minneapolis, MN 55440-1022
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/fbhatti/

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Withdraw Application With Consent has been served on opposing counsel via U.S. first class mail and e-mail on the ___ day of March, 2017 to:

Lisa Greenwald-Swire
Fish & Richardson PC
PO Box 1022
Minneapolis, MN 55440
Greenwald-Swire@fr.com

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Farah P. Bhatti