

ESTTA Tracking number: **ESTTA928259**

Filing date: **10/12/2018**

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

Proceeding	91240472
Party	Defendant Mocoffee AG
Correspondence Address	ANDREW M SMITH HOLLEY & MENKER PA PO BOX 1650 BEND, OR 97709 UNITED STATES dsmith@holleymenker.com, eastdocket@holleymenker.com 720-289-2300
Submission	Request to Withdraw as Attorney
Filer's Name	Andrew M. Smith
Filer's email	dsmith@holleymenker.com, eastdocket@holleymenker.com
Signature	/Andrew M. Smith/
Date	10/12/2018
Attachments	Motion to Withdrawal as Counsel for Applicant.pdf(778530 bytes)

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

Sugarpova, LLC,

Opposer,

v.

Mocoffee AG,

Applicant.

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Opposition No. 91240472
Ser. No. 79212816

REQUEST TO WITHDRAW AS COUNSEL FOR APPLICANT

Pursuant to the provisions of 37 CFR §§ 2.19 and 11.116, Andrew M. Smith and Holley & Menker, PA hereby request to withdraw as counsel for Applicant, Mocoffee AG (“Applicant”), in the referenced opposition proceeding.

The relevant provisions of 37 CFR § 11.116 (Terminating Representation) are as follows:

(b) Except as stated in paragraph (c) of this section, a practitioner may withdraw from representing a client if:

(1) Withdrawal can be accomplished without material adverse effect on the interest of the client;

...
(5) The client fails substantially to fulfill an obligation to the practitioner regarding the practitioner’s services and has been given a reasonable warning that the practitioner will withdraw unless the obligation is fulfilled;

(6) The representation will result in an unreasonable financial burden on the practitioner or has been rendered unreasonably difficult by the client...

In the present case, the undersigned counsel has repeatedly sought instructions from the Applicant regarding the captioned opposition including, but not limited to, (1) feedback on terms of possible settlement; (2) Opposer’s proposal to suspend the opposition for 60-days so as to

allow the parties sufficient time to negotiate settlement; and (3) Applicant's September 12, 2018 deadline to serve initial disclosures on Opposer. On September 18, 2018, counsel advised Applicant that, unless provided with instruction on the forgoing items, counsel would have no other choice but to withdraw from representing Applicant in the captioned proceeding. Applicant has not provided instructions to counsel as requested and, as such, the continued representation of Applicant has been rendered unreasonably difficult.

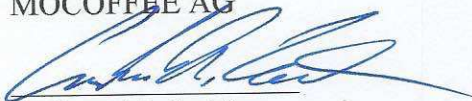
The undersigned counsel has: (1) informed Applicant of its decision to withdraw from representation; (2) mailed all papers that relate to this proceeding to Applicant; and (3) advised Applicant of its duty to provide initial disclosures in accordance with the Board's May 15, 2018 Scheduling Order. Counsel hereby submits, in good faith, that he and the firm of Holley & Menker, PA have good cause to withdraw as counsel in the referenced opposition proceeding.

Under the circumstances, Applicant's counsel, Andrew M. Smith and the firm of Holley & Menker, PA, respectfully move to withdraw from employment of Applicant and the request that Applicant be given a reasonable period of time in which to appoint new counsel in the United States before proceedings are resumed.

Respectfully submitted,

MOCOFFEE AG

By:



Andrew M. Smith
James R. Menker

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Request to Withdraw as Counsel for Applicant" was served on Opposer's attorney, Lesly M. Grossberg of Baker & Hostetler, LLP, via email at the address of lgrossberg@bakerlaw.com, today October 12, 2018.

By:



Andrew M. Smith