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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 Smith
Filer's email	dsmith@holleymenker.com, eastdocket@holleymenker.com
Signature	/Andrew M. Smith/
Date	11/19/2018
Attachments	Renewed Motion to Withdraw as Counsel for Applicant - Opposition No. 91240472.pdf(979315 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

RENEWED MOTION TO WITHDRAW AS COUNSEL FOR APPLICANT

Andrew M. Smith and Holley & Menker, PA hereby submit a renewed motion to withdraw as counsel for Applicant, Mocoffee AG (“Applicant”) in the captioned opposition proceeding. Pursuant to 37 CFR §§ 2.19 and 11.116, a practitioner may withdraw as counsel by providing (1) a statement of the reason(s) for the request to withdraw; (2) a statement that the practitioner has notified the client of his desire to withdraw from employment, and has allowed time for employment of another practitioner; (3) a statement that all documents and property that relate to the proceeding and to which the client is entitled to have been delivered to the client; (4) a statement that any unearned part of a fee paid in advance has been refunded; and (5) proof of service of the request upon the client and every other party to the proceeding.

In the instant case, counsel’s representation of Applicant has been rendered unreasonably difficult in that Applicant has failed to provide instructions in the captioned opposition including, but not limited to, (1) providing instructions on terms of possible settlement; (2) providing instructions and information in advance of Applicant’s September 12, 2018 deadline to serve initial disclosures on Opposer; and (3) providing instructions in relation to Opposer’s September

21, 2018 request to suspend the opposition for 60-days pending Applicant's response to Opposer's proposed terms of settlement. To date, Applicant has not provided the foregoing instructions to counsel as requested and, as such, the continued representation of Applicant has been rendered unreasonably difficult. 37 CFR 11.116(b)(6). The undersigned counsel's continued representation will also result in an unreasonable financial burden on counsel in that Applicant has failed to pay counsel's legal bills in a timely manner. *Id.* Counsel has informed Applicant of his desire to withdraw from representation and that counsel would be filing the necessary documents with the USPTO. Counsel has further allowed Applicant time to retain other counsel to represent it in the captioned proceeding and, as such, Applicant's rights will not be prejudiced by counsel's withdrawal from representation.

Pursuant to Trademark Rule 2.19(b), the undersigned counsel hereby submits in good faith that he has: (1) provided adequate grounds to withdraw from representing Applicant in this proceeding; (2) separately notified Applicant of his desire to withdraw from employment and allowed time for Applicant's employment of another practitioner in the United States; (3) returned to Applicant all documents and property to which Applicant is entitled relating to the captioned opposition and application Ser. No. 79212816; (4) advised Applicant of its duty to provide initial disclosures in accordance with the Board's May 15, 2018 Scheduling Order; and (5) served a copy of this request to withdraw upon Applicant and counsel for Opposer. Counsel further avers that there are no unearned fees that need to be refunded to Applicant and that the trial testimony period in the instant proceeding has not commenced, and that Applicant has been

given notice of counsel's withdrawal at least two months before the expiration of any response period.

As a consequence of the above, Applicant's counsel, Andrew M. Smith and the firm of Holley & Menker, PA, have good cause to withdraw as counsel and respectfully request that it be allowed to withdraw from representing Applicant in the captioned matter. Counsel further requests that Applicant be provided a reasonable period of time to appoint new counsel in the United States before proceedings are resumed.

Respectfully submitted,

MOCOFFEE AG

By:



Andrew M. Smith
James R. Menker

Applicant's Attorneys
Holley & Menker, P.A.
P.O. Box 1650
Bend, OR 97709
T: 720-289-2300
F: 415-480-3255
E-Mail: eastdocket@holleymenker.com


CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing “Renewed Motion to Withdraw as Counsel for Applicant” was served on Opposer’s attorney, Lesley M. Grossberg of Baker & Hostetler, LLP, and Applicant, Mocoffee AG, on November 19, 2018 at the addresses below:

Attorney for Opposer – *Via Email and U.S. First Class Mail*
Lesley M. Grossberg
Bakerhostetler, LLP
2929 Arch St. Cira Centre, 12th Floor
Philadelphia, PA 19104
lgrossberg@bakerlaw.com, clcketing@bakerlaw.com

Applicant – *Via U.S. First Class Mail*
Mocoffee AG
c/o Caminada Treuhand AG
Zollikerstrasse 27 CH-8008
Zürich, SWITZERLAND

By:


Andrew M. Smith