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

Proceeding	91155460
Party	Defendant Chandaria, Sachen
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

3M COMPANY,)	
)	Opposition No. 91155460
Opposer,)	
vs.)	Serial No.: 76/315,955
)	
SACHEN CHANDARIA,)	Interlocutory Attorney: Jennifer Krisp
)	
Applicant.)	Mark: GIFT WRAP IT & DESIGN
<hr/>		

PETITION TO WITHDRAW AS COUNSEL FOR APPLICANT

Pursuant to 37 CFR §§2.19(b) and 10.40 and TBMP §§116.02 and 513.01, the law firm of Honigman Miller Schwartz and Cohn LLP (“HMSC”) hereby respectfully requests leave to withdraw as counsel for Applicant Sachen Chandaria. In support of its motion, HMSC offers the following.

Introduction

Through no fault of its own, HMSC finds itself in the middle of an international, intra-family dispute. When HMSC took over representation of Sachen Chandaria as the Applicant/Respondent in this opposition, it did so at the request of its clients within the large, business-savvy Chandaria family. At that time, all of the Chandarias’ interests were aligned. But now Sachen Chandaria and his father are adverse to HMSC’s clients in at least two separate lawsuits pending in Canada and New York. Although HMSC is not counsel in either of those lawsuits, this rift between members of the Chandaria family puts HMSC in an impossible position. HMSC cannot represent someone who is directly adverse to its long-standing client. Therefore, the Board should permit HMSC to withdraw from representing Sachen Chandaria.

Relevant Background

A. The Chandaria Family and Its Relationship to This Proceeding

Applicant Sachen Chandaria, currently a resident of Nairobi, Kenya, is one member of the large Chandaria family that spreads from Toronto, Canada to the United Kingdom to East Africa. Among the businesses owned by members of the Chandaria family are Conros Corporation (“Conros”) and LePage’s 2000, Inc. (“LePage’s”), based in Toronto. Ex A (Lewis Aff.) ¶3.

On September 21, 2001, a different law firm filed the application at issue in this proceeding, using Sachen Chandaria’s name as the Applicant. On December 31, 2002, Opposer 3M filed its Notice of Opposition.

For several years, HMSC has been one of multiple law firms representing Conros and LePage’s. Lewis Aff. ¶4. That has included representing Conros and LePage’s in other Opposition proceedings before the Board.¹

On June 16, 2005, HMSC first appeared as counsel for Sachen Chandaria in this opposition. Since that time, HMSC has worked diligently, albeit unsuccessfully, to negotiate a settlement of this opposition acceptable to both parties. Although acting in the name of Sachen Chandaria, HMSC was retained by LePage’s, paid by LePage’s, took its direction from LePage’s, and communicated with Sachen Chandaria only through its contact persons at LePage’s. Those contact persons included Navin Chandaria—the President of LePage’s—and his son, Sunir Chandaria. Lewis Aff. ¶5.

¹ See Consolidated Opposition Nos. 91155378, 91156162, and 91161913.

B. The Recent Rift Within the Chandaria Family

On March 12, 2009, Ashok Chandaria—the father of Sachen Chandaria—filed a lawsuit in Canada against over 40 defendants, including HMSC’s clients Conros, LePage’s, Navin Chandaria, Sunir Chandaria, and Kapoor Chandaria (the “Canadian lawsuit”). Ex B. Among other things, the Canadian lawsuit claims that Ashok Chandaria, “on behalf of the family, [is entitled to] ownership of all . . . intellectual property for all of the family’s businesses.” *Id.* ¶21. Presumably, that includes the trademark application at issue in this Opposition. The lawsuit also alleges that Navin Chandaria, among others, has breached fiduciary duties allegedly owed to Ashok Chandaria.

Although Sachen Chandaria, Ashok’s son, is not named as a plaintiff in the Canadian lawsuit, it is apparent that Sachen is aligned with the interests of Ashok and in opposition to defendant members of the Chandaria family. Lewis Aff. ¶9.

On April 6, 2009, Kitaru Innovations, Inc., a Barbados corporation—which is also one of the defendants in the Canadian lawsuit—filed a lawsuit in New York against Ashok and Sachen Chandaria (the “New York lawsuit”). Ex C. Kapoor Chandaria (an HMSC client) is a director of Kitaru, and Kitaru has licensed certain intellectual property to LePage’s. Although that lawsuit involves claims of patent infringement that do not directly pertain to this Opposition, the lawsuit has only further crystallized the diversity in interest between the faction of the Chandaria family that includes Ashok and Sachen, and the faction that includes Navin Chandaria, Kapoor Chandaria and LePage’s, HMSC’s longstanding clients.

C. HMSC's Timely and Proper Efforts to Amicably Withdraw From This Matter

Through no fault of its own, HMSC now finds itself in the middle of an intra-family dispute. In this Opposition, HMSC still technically represents Sachen Chandaria. In reality, however, HMSC's actual client relationship with respect to this Opposition has always been with Navin Chandaria and LePage's, who are now in litigation against Sachen Chandaria.

On May 19, 2009, Opposer 3M served HMSC with written discovery requests. On June 8, 2009—after consultation with Navin Chandaria of LePage's—HMSC contacted Sachen Chandaria by e-mail and Federal Express concerning the status of this Opposition, and HMSC's inability to proceed as counsel:

As you know, our firm has long represented LePage's 2000, Inc. ("LePage's"). That representation has included defending the above-captioned trademark Opposition proceeding. In this proceeding, 3M Company ("3M") challenges the application to register the mark GIFT WRAP IT & Design. That application was filed in your name.

In light of recent legal developments in your relationship with LePage's, however, our firm can no longer continue to act in your name. If you return to us a signed copy of the enclosed form revoking our power to represent you, we will file it immediately. If we do not hear from you, we intend to petition the Trademark Trial and Appeal Board by June 15, 2009 for leave to withdraw from representing you. * * *

We urge you to give immediate attention to this matter, and engage new counsel as soon as possible.

Ex D. On June 15, 2009, HMSC received a response on Sachen Chandaria's behalf from the law firm of Stroock & Stroock & Lavan LLP—the same law firm representing Sachen in the New York lawsuit. Ex E. The letter expressly *refused* consent to HMSC's withdrawal. Yet, for the ostensible purpose of "evaluating" that request, the letter demanded production of not only all of HMSC's files related to the opposition, but also "a copy of all documents relating to Mr. [Sachen] Chandaria"—a request that goes far beyond the subject matter of this Opposition.

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