

WESTINGHOUSE DIGITAL ELECTRONICS, LLC

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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

SOFTWARE FREEDOM CONSERVANCY,
INC. and ERIK ANDERSEN,

Plaintiffs,

v.

BEST BUY CO., INC.; SAMSUNG
ELECTRONICS AMERICA, INC.;
WESTINGHOUSE DIGITAL
ELECTRONICS, LLC; JVC AMERICAS
CORPORATION; WESTERN DIGITAL
TECHNOLOGIES, INC.; ROBERT BOSCH
LLC; PHOEBE MICRO, INC.; HUMAX USA
INC.; COMTREND CORPORATION;
DOBBS-STANDFORD CORPORATION;
VERSA TECHNOLOGY INC.; and GCI
TECHNOLOGIES CORPORATION,

Defendants.

Civil Action No: 09-cv-10155 (SAS)
Judge Scheindlin

**MEMORANDUM IN SUPPORT OF
MOTION TO WITHDRAW COUNSEL OF
RECORD**

The law firms of Renner, Otto, Boisselle & Sklar LLP and Kane Kessler, P.C. seek to withdraw as counsel for defendant Westinghouse Digital Electronics, LLC. (“Westinghouse”) in the case identified above.

On April 2, 2010, Westinghouse, a California limited liability company, now known as Mora Electronics, LLC (“Mora”), executed a General Assignment (the “General Assignment”). Under the General Assignment, Mora assigned all of its assets (excluding real property leasehold interest and interests under agreements with labor unions or trade associations) to the Credit Management Association of California (“the CMA”), a California corporation, in trust, for the benefit of Mora’s creditors.¹

The CMA has determined that it will not provide a defense in this action. Consequently, the CMA has provided to plaintiff the attached Bulletin No. 1.² The Bulletin provides information on the General Assignment and informs potential creditors, such as plaintiff, how to seek participation in the distribution of assets of Mora.

Michael Joncich of the CMA has informed the subject attorneys that they are not authorized to represent Westinghouse, Mora or the CMA in connection with this case. Mr. Joncich also terminated the services of the subject attorneys and revoked their authority to act on behalf of Westinghouse.³ The New York Rules of Professional Conduct and Local Rules of the Southern District of New York govern the termination of a lawyer’s services. Specifically, Professional Conduct Rule 1.16(b)(3) states that “a lawyer shall withdraw from the representation of a client when...the lawyer is discharged.” (Rules of Prof’l Conduct R. 1.16 (2009).) Notwithstanding, under subsection (d) of the same rule as well as under Local Rule 1.4,

¹ Declaration of Jay R. Campbell of Motion to Withdraw (“Campbell Decl.”) at ¶ 2, 3.

² Campbell Decl., Attachment A.

³ Campbell Decl. at ¶ 5.

an attorney must obtain leave of the court in order to withdraw. (L.R. Civ. 1.4 (2009).) In light of the termination of their authority and services, Renner Otto and Kane Kessler now come before this court and seek to withdraw as counsel for defendant Westinghouse in compliance with the above rules.

Counsel has added Mr. Joncich's email to the CM/ECF system so that he will receive notices from the court in the above captioned case.

Renner Otto and Kane Kessler respectfully request that the Court enter an Order allowing them to withdraw as counsel for Defendant Westinghouse Digital Electronics, LLC. No party would suffer prejudice by this withdrawal.

Dated: June 29, 2010 in Cleveland, Ohio

Respectfully submitted,

/s/ Kyle B. Fleming
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*Attorneys for Westinghouse Digital
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CERTIFICATE OF SERVICE

I hereby certify that on June 29, 2010, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document was served by electronic service on all parties of record via CM/ECF.

Dated: June 29, 2010

/s/ Kyle B. Fleming
Kyle B. Fleming (KF-2327)