



TTAB

01-14-2002

U.S. Patent & TMOfr/TM Mail Rcpt Dt. #11

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

KEVIN T. MC CARNEY, dba )  
 POQUITO MAS )  
 )  
 Opposer, )  
 )  
 v. )  
 )  
 UNA MAS, INC. )  
 )  
 Applicant. )

Opposition No. 107,026  
 Opposition No. 107,748  
 I hereby certify that this correspondence is being deposited  
 with the United States Postal Service as first class mail  
 in an envelope addressed to: Assistant Commissioner for  
 Trademarks, 2900 Crystal Drive, <sup>Box TTAB</sup>  
 Arlington, VA 22202-3513, on 1-11-02

E. Cleveland

1-11-02

Date of Signature

**MOTION TO QUASH NOTICE OF TAKING DEPOSITION**

Opposer, Kevin T. McCarney, dba Poquito Mas (hereinafter "Opposer"), moves to quash the attached notice of taking deposition (Exhibit 1) scheduled for Thursday, January 31, 2002 and for a Protective Order that an improper deposition not be taken.

On May 25, 2001, Una Mas, Inc. (Applicant) took the deposition of Kevin T. McCarney (first McCarney Deposition). Applicant has now served a second notice of taking the discovery deposition of Kevin T. McCarney (Second McCarney Deposition) which is scheduled for the last day of discovery for the above-identified action. The notice for the second McCarney deposition was taken with the full knowledge of Applicant that Opposer's lead counsel is in Cleveland, Ohio and the notice is for taking deposition in California. This is nothing more than harassment by Applicant and an attempt by Applicant to further increase the cost incurred by Mr. McCarney. Applicant had its chance during the First McCarney Deposition to obtain discovery from Mr. McCarney. Applicant has set forth no reason why the Second McCarney Deposition is necessary. In view of

Rule 30(a)(2)(B), the scheduled deposition is not proper; consequently, Opposer will not attend a deposition on January 31, 2002.

For all the above reasons, it is respectfully requested that the Board grant this Motion to Quash the Notice of Deposition and for a Protective Order that the deposition noticed for January 31, 2002 not be taken. Notice thereof is earnestly solicited.

Respectfully submitted,

VICKERS, DANIELS & YOUNG



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Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION TO QUASH NOTICE OF TAKING DEPOSITION was served on Applicant, Una Mas, Inc., by first class mail, postage prepaid, this 11<sup>th</sup> day of January, 2002 to the attorney for Applicant at the address below:

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ROBERT V. VICKERS  
Attorney for Opposer