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Date: 06-13-03

By: Nancy M. Grams
Nancy M. Grams

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TRADEMARK TRIAL AND APPEAL BOARD

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



X
KEVIN T. McCARNEY, dba
POQUITO MAS,
Opposer,
v.
UNA MAS, INC.,
Applicant.

X

Opposition No. 107,026
Opposition No. 107,048

06-17-2003
U.S. Patent & TMO/TM Mail Rcpt Dt. #22

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on 06-13-03
Nancy M. Grams
(SIGNATURE)
NANCY M. GRAMS
(faxed by GSV 6/13/03)

REQUEST FOR ENTRY OF PROTECTIVE ORDER

The parties in the above-identified proceedings have stipulated to a protective order for these proceedings. Enclosed is a copy of a Stipulated Protective Order Respecting Confidential Material Disclosed During Testimony Depositions. Entry of the protective order is respectfully requested.

Attorney of Record for Opposer:

FAY, SHARPE, FAGAN, MINNICH & McKEE, LLP

Date: 6/12/03

Robert V. Vickers
ROBERT V. VICKERS (Reg. No. 19,504)
1100 Superior Avenue, Seventh Floor
Cleveland, Ohio 44114
(216) 861-5582

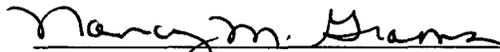
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing REQUEST FOR ENTRY OF PROTECTIVE ORDER was served on Applicant's Attorney by First Class, U.S. Mail, postage prepaid, at the below-stated address:

David J. Brezner, Esq.
Dorsey & Whitney, LLP
Four Embarcadero, Suite 3400
San Francisco, California 94111

on this 13th day of June, 2003.



Nancy M. Grams

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

KEVIN T. McCARNEY dba)
POQUITO MAS)
)
Opposer,)

OPPOSITION NOS. 107,026 & 107,748

v.



UNA MAS, INC.

06-17-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Applicant.)

STIPULATED PROTECTIVE ORDER
RESPECTING CONFIDENTIAL
MATERIAL DISCLOSED DURING
TESTIMONY DEPOSITIONS

IT IS HEREBY STIPULATED AND AGREED, by and among plaintiff and defendant herein, by their respective undersigned counsel, as follows:

1. This Stipulated Order shall govern all non-public documents and other non-public products or testimony obtained by or from plaintiff or defendant and their respective parents, affiliates or subsidiaries in the above captioned action during a trial deposition, all information or by-products derived therefrom, and all copies, portions, abstracts, digests or summaries thereof, deposition testimony and transcripts, and any other information, documents, objects or things which have been or will be produced or received by any party during a trial deposition. The aforesaid materials are collectively referred to herein as "Discovery Material."

2. Discovery material shall be used solely for the prosecution or defense of this action. During both the pendency of and subsequent to the termination of this action, discovery material shall not be used for any other purpose. Control and distribution of all discovery material shall be the responsibility of the attorneys of record herein, and shall be solely in accordance with the provisions of this Order.

3. Confidential treatment may be claimed for non-public information contained in any trial deposition material where the party claiming such treatment determines in good faith that public

disclosure of such information would damage its commercial or proprietary interests or those of third parties whom he has an interest in protecting or with whom he has agreed to preserve confidentiality.

4. Any discovery material which sets forth or contains confidential information as defined in paragraph 3, above, may be designated by any party as "confidential material" pursuant to this Order. Such designation shall be made at the time the information is produced or filed, by making the following legend on each page of the discovery material intended to be confidential:

"CONFIDENTIAL"

5. A party may designate as confidential any deposition testimony in these proceedings or any portion thereof by (i) notifying counsel for the parties in writing of those pages of the transcript which are to be stamped and treated as confidential at any time up to twenty (20) days after actual receipt of the transcript of the deposition by such party's counsel; or (ii) designating the material as confidential on the record. Prior to the expiration of such twenty (20) day period (or until a designation is made by counsel, if such a designation is made in a shorter period of time), the entire deposition shall be treated as if it were confidential.

6. Except as otherwise provided herein, confidential material may be inspected, examined or read by, and disclosed, described or summarized to, only the following persons:

(a) counsel of record for plaintiff and defendant in this litigation, their partners, associates, paralegals and other employees, other lawyers specifically retained by them in connection with the litigation and any employee of such lawyer. This definition specifically excludes any in-house attorneys for the parties including in-house attorneys for any parent, subsidiary or affiliated company of any party;

(b) other persons requested or retained by or on behalf of any party or counsel to provide or furnish technical, analytical or other expert assistance or testimony, or who are consulted with, in connection with this litigation, and their employees ("experts");

(c) stenographic reporters engaged in deposition proceedings; and

(d) the Board and persons employed or designated by the Board.

7. (a) Before any confidential material may be disclosed or disseminated to any person identified in paragraph 6(b) hereof, such person must sign a written statement in the form attached hereto as Exhibit A, reciting that such person has read the Stipulated Protective Order Respecting Confidential Material and promises to comply fully therewith and consents to the jurisdiction of the Board in connection with the enforcement of the Order and his agreement to be bound by its terms; provided, however, that persons in paragraph 6(a), including secretaries, copy machine operators and other ministerial employees of counsel for the parties, shall not be required to sign such statements. Copies of this attestation shall be retained by counsel directing the disclosure.

(b) In the event a party wishes to make disclosure of confidential information to persons other than those referred to in paragraph 6 above, such party shall submit to counsel for the producing party, or party who claims confidentiality, with copies to all counsel, a written statement identifying the name and address and business or occupation of the person or persons to whom the proposed disclosure is to be made. Within fifteen (15) days after such notice, counsel for the producing party, the party who claims confidentiality, or any other party shall give written notice of his objection to such disclosure. If the proposed disclosure is to be made to a witness at a deposition or hearing, the party requesting the disclosure may make the request orally on the record immediately

prior to the proposed disclosure. Any objections will be made promptly on the record. If counsel are unable to informally resolve any objection, the requesting party may apply to the Board for an order permitting the proposed disclosure. No such disclosure shall take place until the Board has acted upon such application. In the absence of notice of objection, the party seeking to disclose may proceed with the proposed disclosure after expiration of said period for objecting.

8. In the event that any information or documents subject to the confidentiality restrictions of this Stipulated Protective Order Respecting Confidential Material are used in motions, affidavits, briefs or other documents filed with the Board, or are referred to in any hearing before the Board, such written material or transcripts containing such reference shall bear the legend:

"THIS DOCUMENT CONTAINS CONFIDENTIAL MATERIAL COVERED BY A PROTECTIVE ORDER OF THE BOARD AND IS SUBMITTED UNDER SEAL PURSUANT TO THAT PROTECTIVE ORDER. THE CONTENTS OF THIS DOCUMENT MAY NOT BE DISCLOSED WITHOUT EXPRESS ORDER OF THE BOARD."

The Board is directed to file under seal all documents so marked. Further, in any hearing before the Board, the courtroom shall be cleared, except for those persons permitted access to the confidential material pursuant to this agreement.

9. Nothing contained in this Order shall affect the right, if any, of any party or non-party to make any other type of objection, claim, or other response to the confidential material or to any questions at a deposition. Nor shall this Order be construed as a waiver by any party or non-party of any legally recognizable privilege to withhold any document or information, or of any right which any party or non-party may have to assert such privilege at any stage of the proceedings.

10. Within ninety (90) days after the final adjudication or settlement of all claims in these actions, counsel for the parties either shall return all confidential material produced, if so requested

by the producing party, or shall destroy all such documents. All copies of documents, and all information and notes derived from them, excluding attorney work product, shall be destroyed. Compliance with this provision shall be certified to by affidavit by all counsel for the obtaining party or parties.

11. Nothing herein shall be deemed to restrict the disclosure by any party of its own documents or materials to its own employees and agents whether or not marked confidential.

12. Nothing herein shall affect the right of any party to seek additional protection against the disclosure of any documents or materials.

13. Any party may apply to the Board at any time, upon proper notice, for a modification of this Protective Order with respect to the handling or designation of any document or for any other purpose.

14. This Order shall be binding upon any future unaffiliated party to this litigation, and no discovery materials hereunder shall be disclosed to any such party until they or their counsel execute a copy of this agreement, and it is so ordered by the Board.

DORSEY & WHITNEY LLP

By David J. Brezner
Dated: 8/22/02
David J. Brezner
4 Embarcadero Center, Suite 3400
San Francisco, CA 94111-4187
(415) 781-1017
Attorneys for Applicant Una Mas, Inc.

FAY, SHARPE, FAGAN, MINNICH &
McKEE LLP

By Robert V. Vickers
Dated: 8/19/02
Robert V. Vickers
1100 Superior Avenue, 7th Floor
Cleveland, Ohio 44114
(216) 861-5582
Attorneys for Opposer, Kevin T. McCarney
dba Poquito Mas

SO ORDERED:

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

KEVIN T. McCARNEY dba)	
POQUITO MAS)	OPPOSITION NOS. 107,026 & 107,748
)	
Opposer,)	
)	STIPULATED PROTECTIVE ORDER
v.)	RESPECTING CONFIDENTIAL
)	MATERIAL DISCLOSED DURING
UNA MAS, INC.)	TESTIMONY DEPOSITIONS
)	
Applicant.)	

I, _____ declare that I have read the Stipulated Protective Order Respecting Confidential Material Disclosed During Testimony Depositions signed by the Applicant and Opposer herein and ordered by the Board in this action, that I understand its terms, and that I agree to be bound by all of the requirements and restrictions of said Order.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

Exhibit A


06-17-2003
U.S. Patent & TMO/TM Mail RptDt. #22

TO:Auto-reply fax to 216 241 1666 COMPANY:

Auto-Reply Facsimile Transmission

UNITED STATES
PATENT AND
TRADEMARK OFFICE

TO:

Fax Sender at 216 241 1666

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Received
Cover
Page

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06/13/2003 08:18 FAX 216 241 1666

FAY SHARPE FAGAN MINNICH

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FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, 7TH FLOOR, CLEVELAND, OHIO 44114-2518
TEL. (216) 861-5582 FAX (216) 241-1666

TO: Albert Zervas

DATE: June 13, 2003

FROM: Gregory Vickers

FAX #: 703 746 7072

SUBJECT: Kevin T. McCarney dba Poquito Mas v. Una Mas, Inc.
Opposition Nos. 107,026 & 107,748

PAGES: 9

Dear Mr. Zervas,

As discussed in our telephone conversation, attached is a courtesy copy of our request for entry of a Stipulated Protective Order. The actual request is being submitted and served by mail later today. If you have any questions or comments, please call me.

Very truly yours,
Gregory Vickers

This transmission, and/or any attachment, contains confidential information from the firm of Fay, Sharpe, Fagan, Minnich & McKee, LLP intended only for the addressee(s) and may also be legally privileged and/or subject to attorney work product protection. If you are not the intended recipient, any use, disclosure, dissemination, distribution, or copying of this document or its contents or attachments is strictly prohibited. If you received this message in error, please contact the sender immediately. Thank you.

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