



TTAB

01-15-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #30

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

DGWB, INC.,)	
)	
Opposer,)	
)	
v.)	Opp. No. 91151728
)	Serial No. 76295565
GEORGES DIRECT, INC.)	Trademark: ADELANTE
)	HISPANIC MARKETING
Applicant.)	A DIVISION OF GEORGES
)	DIRECT
)	

STIPULATED PROTECTIVE ORDER

The parties to this action having stipulated, through their respective counsel, to the entry of the following Protective Order regarding confidentiality ("Protective Order"), IT IS HEREBY ORDERED that:

1. This Protective Order governs the use of all produced documents, responses to interrogatories and requests for admissions, deposition transcripts, and any other information, documents, objects or things which have been or will be produced or received by any party or third-party witness during proceedings in this Opposition pursuant to the Federal Rules of Civil Procedure, and the Rules of the Patent and Trademark Office (PTO) and the Trademark Trial and Appeal Board (TTAB), as well as any and all copies, abstracts, digests, notes, and summaries thereof.

2. Use of any information, documents, testimony or other materials subject to this Protective Order shall be restricted solely to this Opposition Proceeding and shall not be

used by any party, for any business, commercial, or competitive purpose. This Protective Order, however, in no way operates to restrict the disclosure or use of any information that is in the public domain or that is known or becomes known through means or sources outside of this litigation.

3. The parties may designate as “confidential” documents, testimony, or other materials produced in this case that contain or that could lead to the disclosure of confidential trade secret business or commercial information. If any party to this action or witness claims that any document or other material produced by such party or witness or any information contained in the document or material is confidential, then the party claiming confidentiality shall mark the document, and each page of the document, with a stamp identifying it as "Confidential."

4. The parties also may designate as “highly confidential” and for “attorneys' eyes only” documents or other materials produced in this case that contain or that could lead to the disclosure of confidential trade secret business or commercial information that could cause irreparable harm to the disclosing party. If any party to this action or witness claims that any document or other material produced by such party or witness or any information contained in the document or material falls within this category, then the party claiming confidentiality shall mark the document, and each page of the document, with a stamp identifying it as "Confidential -- Attorneys' Eyes Only" or with an equivalent message.

5. With respect to answers to interrogatories or responses to requests for admissions, a party may designate all or any portion of such responses as "Confidential" by clearly labeling them as such in the body of the response. A party may designate all or any portion of such responses as "Confidential -- Attorneys' Eyes Only" by placing such portions in a separate document which shall be sealed, appropriately labeled, and served together with the non-confidential portion of such response. Such portions so designated shall be treated by the parties as provided below.

6. If portions of documents or other materials deemed "Confidential" or "Confidential -- Attorneys' Eyes Only" are filed with the Board, they shall be filed under seal and marked as follows:

CONFIDENTIAL

IN ACCORDANCE WITH THE BOARD'S PROTECTIVE ORDER OF ____200____,
THE ENCLOSURE(S) SHALL BE TREATED AS CONFIDENTIAL AND SHALL
NOT BE SHOWN TO ANY PERSON OTHER THAN THOSE PERSONS
DESIGNATED IN PARAGRAPHS 9 AND 10 OF THE PROTECTIVE ORDER.

7. At or within thirty (30) days after receipt of the transcript of the deposition of any party or witness in this case, if the questioning is such that the party or witness determines that the answers disclose confidential or highly confidential information or could lead to the disclosure of confidential or highly confidential information, the party or witness may designate that information confidential or highly confidential, and, when filed with the Board, the transcript containing this material shall be under seal and marked in the manner described in paragraph 6. In the event confidential or highly confidential attorneys'-eyes-

only material is disclosed during the course of a deposition, counsel may designate those portions of the transcript (including exhibits) by making a statement to that effect on the record.

8. Information and documents subject to this Protective Order shall not be filed with the Board or included in whole or in part in pleadings, motions, briefs, etc., filed in this Opposition, unless and until any confidential or highly confidential portion(s) of such pleadings, motions, briefs, etc., have been filed under seal by counsel and marked in the same manner as described in paragraph 6 above. Such sealed portion(s) of pleadings, motions, briefs, documents, etc., shall be opened only by the Board or by personnel authorized to do so by the Board.

9. Use of any information and documents marked "Confidential," including all information derived from those sources, shall be restricted solely to the following persons, who agree to be bound by the terms of this Protective Order:

- a. officers, directors, and legitimate employees and experts of the parties but only to the extent necessary for the presentation or defense of this action in good faith;
- b. counsel for any party to this litigation, including attorneys of counsels' law firms and all employees of those firms, including, but not limited to, paralegals, legal assistants, and stenographic and clerical employees;

c. any individual retained or specially employed by a party as an expert either in anticipation of litigation, in preparation for trial or to testify at trial, provided that such individual execute a statement agreeing to be bound by this Protective Order as follows: "I have been provided and have read the Protective Order regarding confidentiality in DGWB, Inc. v. Georges Direct, Inc., Opposition No. 91151728 (Trademark Trial and Appeal Board), and I understand its provisions, including my responsibilities and obligations, and expressly agree to be bound to its terms as ordered by the Board." ;

d. the Board and its personnel; and

e. any other persons whose access to confidential documents is stipulated to by the parties or authorized by the Board.

10. Use of any information, documents, or portions of documents marked "Confidential -- Attorneys' Eyes Only," including all information derived from those sources, shall be restricted solely to the following persons, who agree to be bound by the terms of this Protective Order, unless additional persons are stipulated by counsel or authorized by the Board:

a. outside and in-house counsel for any party to this litigation, including attorneys of counsels' law firms and all employees of those firms, including, but not limited to, paralegals, legal assistants, and stenographic and clerical employees.

b. any individual retained or specially employed by a party as an expert either in anticipation of litigation, preparation for trial or to testify at trial, provided that the individual to whom disclosure will be made, and provided that the individual execute a statement agreeing to be bound by this Protective Order as follows: "I have been provided and have read the Protective Order Regarding Confidentiality in DGWB, Inc. v. Georges Direct, Inc., Opposition No. 91151728 (Trademark Trial and Appeal Board), and I understand its provisions, including my responsibilities and obligations, and expressly agree to be bound to its terms as ordered by the Board.";

c. the Board and its personnel;

d. any other persons whose access to highly confidential documents is stipulated to by the parties or authorized by the Board.

11. Whenever information designated as "Confidential" or "Confidential - Attorneys' Eyes Only" pursuant to this Protective Order is to be disclosed in a deposition or other hearing or proceeding, any party claiming confidentiality may exclude from the room any person, other than persons designated in Paragraphs 9 and 10 of this Protective Order, as appropriate, for that portion of the deposition, hearing, or proceeding.

12. This Protective Order shall not constitute a waiver of any party's or non-party's right to oppose any discovery request as provided under the Federal Rules of Civil Procedure or the Rules of the PTO. Nothing in this Protective Order shall prejudice any party from

seeking amendments to it broadening or restricting the rights of access to and use of confidential information, or other modifications, subject to order by the Board.

13. Within thirty (30) days after the entry of a final judgment no longer subject to appeal on the merits of this case, or after the execution of any agreement between the parties to resolve and fully and finally settle this case, each party shall return to every other party or witness all information and documents or any copies subject to this Protective Order. This material shall be delivered in sealed envelopes marked "Confidential" to respective counsel.

14. Any party may object to the propriety of the designation (or re-designation) of specific materials as "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEYS' EYES ONLY" by serving a written objection on the producing party or its counsel. The producing person shall thereafter, within ten (10) business days of receipt of such objection, respond to such objection by either (a) agreeing to remove the designation; or (b) stating the reasons why the designation was made. If the objecting party and the producing party are subsequently unable to agree, the objecting party shall be free to move the Board for an order removing the disputed designation. The burden shall be on the producing party to establish the propriety of the disputed designation. The materials in issue shall continue to be treated as designated until the Board orders otherwise.

15. The inadvertent production of privileged material shall not be deemed a waiver of any applicable privilege, including but not limited to the attorney client privilege

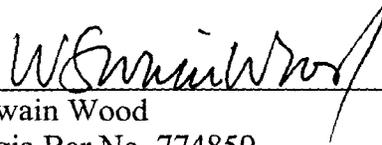
or attorney work product doctrine, concerning any such material or the subject matter thereof.

So stipulated, this 3 day of JAN, 2002.



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Raleigh, North Carolina 27612

Counsel for Applicant Georges Direct, Inc.

CERTIFICATE OF MAILING

I hereby certify that the foregoing **STIPULATED PROTECTIVE ORDER** regarding **Opposition No. 91151728** is being deposited this day with the United States Postal Service as First Class Mail in an envelope with adequate postage thereon addressed to:

Assistant Commissioner of Patents and Trademarks,
2900 Crystal Drive,
Attention: BOX TTAB NO FEE
Arlington, Virginia 22202

This 13th day of January, 2003.



W. Swain Wood
KILPATRICK STOCKTON LLP
3737 Glenwood Avenue, Suite 400
Raleigh, North Carolina 27612-5515
(919) 420-1700

Attorney for Applicant

CERTIFICATE OF SERVICE

This is to certify that the undersigned has served on this date a true and correct copy of the within and foregoing **STIPULATED PROTECTIVE ORDER** upon counsel for Opposer, by Federal Express overnight delivery addressed as follows:

S. Daniel Harbottle, Esq.
Rutan & Tucker, LLP
611 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

This 13th day of January, 2003



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