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

Proceeding	91210158
Party	Plaintiff Larry Pitt & Associates, P.C.
Correspondence Address	JACQUELINE M LESSER BAKER & HOSTETLER LLP 2929 ARCH STREET, CIRCA CENTRE 12TH FLOOR PHILADELPHIA, PA 19104-2891 UNITED STATES jlesser@bakerlaw.com, jdale@bakerlaw.com
Submission	Other Motions/Papers
Filer's Name	Jacqueline M. Lesser
Filer's e-mail	JLesser@bakerlaw.com, kblumer@bakerlaw.com
Signature	/Jacqueline M. Lesser/
Date	02/18/2015
Attachments	Request for Redesignation of Documents Marked Trade Secret Commercially Sensitive Attorneys Eyes Only.pdf(215209 bytes) Declaration in Support of In Camera Request for Review of Documents and Request for Redesignation.pdf(101710 bytes) Exhibit A.pdf(353294 bytes) Exhibit B.pdf(197401 bytes) Exhibit C.pdf(307501 bytes) Exhibit D.pdf(159658 bytes) Exhibit E.pdf(574158 bytes) Exhibit F.pdf(35293 bytes) Exhibit G.pdf(35695 bytes) Exhibit H.pdf(35299 bytes) Exhibit I.pdf(35300 bytes) Exhibit J.pdf(35444 bytes) Exhibit K.pdf(35668 bytes)

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

LARRY PITT & ASSOCIATES, P.C.

Opposer,

v.

LUNDY LAW LLP

Applicant

Opposition No. 91210158

**REQUEST FOR REDESIGNATION OF DOCUMENTS MARKED “TRADE
SECRET/COMMERCIALLY SENSITIVE/ATTORNEY’S EYES ONLY”**

Larry Pitt & Associates, P.C. (“Opposer”), by this motion and the attached declaration of Jacqueline M. Lesser (“Lesser Decl.”), hereby seeks the Board’s *in camera* document inspection for the purpose of redesignating documents that have been improperly labeled as “trade secret/commercially sensitive/attorneys’ eyes only.” The documents are submitted herewith “Under Seal,” pursuant to the Standard Protective Order. The full motion is also submitted “Under Seal” because of descriptions of the documents at issue. A redacted version of these papers has been filed publicly, pursuant to the Board’s rules.

As further discussed herein, none of the documents described and identified in this motion are, in fact, “trade secret/commercially sensitive/attorneys’ eyes only” worthy, and that catchall designation should be removed. Although the parties have met and conferred on this issue, Applicant has refused to remove the absolutely restrictive designation or offer any explanation of why this overreaching three-part designation is appropriate at all. The parties are unable to resolve this matter without the Board’s intervention. Lesser Decl. ¶13. Pursuant to 37

CFR § 2.120(i)(1), Opposer requests resolution of this motion by telephone conference with the Interlocutory Attorney.

1. FACTS RELEVANT TO THIS MOTION

Following the Board's Order of February 28, 2014, directing a production of documents responsive to Opposer's first discovery requests, Applicant served a supplemental production which it marked, in its entirety, "trade secret/commercially sensitive/attorneys' eyes only."¹ On October 31, 2014, the Board dismissed Opposer's claims of genericness and mere descriptiveness, and permitted Opposer to amend its Opposition to flesh out its claim that the phrase "remember this name" failed to function as a trademark (Dkt. 23). On November 11, 2014, Opposer wrote to Applicant regarding the overbroad designation of documents as "trade secret, commercially sensitive/attorneys' eyes only." Lesser Decl. ¶2. After multiple reminders, Applicant finally responded and advised by telephone that it would not agree to redesignate the documents. *Id.* Since Applicant offered no clarification on its position, Opposer sent two more emails after the New Year to attempt to resolve the matter – or at least to gain some insight as to why Applicant believed the documents in question should be completely restricted from access. Lesser Decl. ¶¶3 and 4. After several additional email exchanges, on February 9, 2015, in a one sentence response, counsel for Applicant stated: "Lundy Law, LLC does not consent to change of the designation of the documents marked as Trade Secret or Highly Confidential to which you referred in your email dated 1/30/2015." Lesser Decl. ¶5; Ex. D. Applicant's counsel also

¹ At the time of production and designation, Opposer was unable to contest the designation. By the Rules of Practice, Opposer could not then resolve the discovery dispute on documents that it did not use in its summary judgment papers until after resolution of the summary judgment motion decided in October 2014, and Applicant served its Answer to the Amended Notice of Opposition.

advised that Applicant would not permit the already designated marketing expert, Ross Fishman, access to the documents. Lesser Decl. ¶6; Ex. E.

2. ARGUMENT

A. The “Trade Secret/Commercially Sensitive/Attorneys’ Eyes Only” Designation Should Be Removed.

The Standard Protective Order does not protect public information from disclosure:

Information may ***not*** be designated as subject to any form of protection if it (a) is, or becomes, public knowledge, as shown by publicly available writings, other than through violation of the terms of this document; (b) is acquired by a non-designating party or non-party witness from a third party lawfully possessing such information and having no obligation to the owner of the information; (c) was lawfully possessed by a non-designating party or non-party witness prior to the opening of discovery in this proceeding, and for which there is written evidence of the lawful possession; (d) is disclosed by a non-designating party or non-party witness legally compelled to disclose the information; or (e) is disclosed by a non-designating party with the approval of the designating party.

Stip. Prot. Order at ¶ 2, emphasis added.

Nonetheless, Applicant has designated its entire second production – of old documents, about public matters, as “Trade Secret/Commercially Sensitive/Attorneys’ Eyes Only”.

Applicant has not articulated any basis for its designation of these documents – despite the fact that cause must exist for such a drastic limitation to access. *See e.g., Nix v. Sword*, 11 Fed.Appx. 498, 500 (6th Cir.2001) (good cause must exist, and the party designating the materials must articulate specific facts showing clearly defined and serious injury resulting from disclosure).

There has been no explanation whatsoever – no attempt to justify the restrictions. However, by virtue of this label, under the Standard Protective Order, “this entire production is shielded from public access, restricted from any access by the parties, and available for review by outside counsel for the parties and only available to experts and other consultants upon the parties’ agreement.” (Stip. Prot. Order ¶¶ 3 and 4). As a practical matter, Opposer’s attorney is unable to

discuss the documents with its client – Opposer handles its own marketing – and needs to review documents to explain to its counsel advertising and marketing terms of art, and industry customs. It cannot do so because of the improper designation. Opposer is likewise unable to show these public documents to its marketing expert because of the improper designations. Finally, public documents that should be accessible are not accessible because of the improper designation.

B. The Designation Improperly Limits Access to Public, Non-Confidential Documents.

Applicant first agreed to litigate this matter without a Protective Order, and then refused to produce documents responsive to discovery requests (Dkt. No. 7). When the Board granted Opposer’s Rule 56 (d) request for production and instituted the Standard Protective Order (Dkt 12), Applicant slapped the highest level restrictions on all of the documents subsequently produced. According to Applicant, each document is a trade secret document, despite that none of the documents bear any internal marking that they are trade secret or kept as such. According to Applicant, each document is a “commercially sensitive document,” despite the fact that counsel for both sides can not determine anything at all in the documents that would be commercially sensitive – indeed, Applicant’s counsel has not articulated any basis for marking the documents at all. According to Applicant, each document is an “attorneys’ eyes only” document, without any rationale. The overreaching labeling of the documents belies the purpose of a Protective Order, which is intended to be used as a means to permit access to documents, within bounds – not to make public documents inaccessible. “(E)xcept in unusual circumstances, Board proceedings are open to the public; the mere assertion that information is confidential does not make such designation proper. ‘What happens in the halls of government is presumptively public business...any step that withdraws an element of the juridical process from public view makes the ensuing decision look more like a fiat, which requires compelling justification.’”

Hunter Indus. Inc. v. Toro Co., 110 USPQ 2d 1651, 1656 (TTAB 2014), n. 12, citing *Union Oil Co. of Cal. v. Leavell*, 220 F.3d 562, 568 (7th Cir. 2002).

Quite simply, the Applicant over-designated documents, tactically, to make it difficult for Opposer to prepare its case, rather than to protect a legitimate competitive interest, or prevent disclosure of genuinely commercially sensitive or trade secret materials. Because the documents have been labeled as restricted, Opposer must now take affirmative steps to remove the label, and until such label is removed, Opposer and its expert witness are unable to review documents that are necessary to preparation of its case.

“Board proceedings are designed to be publicly available and the improper designation of materials as confidential thwarts that intention. It is more difficult to make findings of fact, apply the facts to the law, and write decisions that make sense when the facts may not be discussed. The Board needs to be able to discuss the evidence of record, unless there is an overriding need for confidentiality, so that the parties and a reviewing court will know the basis of the Board's decisions.” *Edwards Lifesciences Corp. v. VigiLanz Corp.*, 94 USPQ 2d 1399, 1403 (TTAB 2010). Applicant’s over-designation functionally means that Opposer cannot review basic, public documents without filing this motion. Procedurally, it means that the documents can only be provided to the Board “Under Seal.” It means that even a portion of this motion may only be filed publicly – certain pages must be redacted. Practically, it means that although Opposer has access to the television and radio advertisements released by Applicant, Opposer has no access [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] It means that Applicant can use a public, governmental forum to attempt to protect a

“mark,” but it is unwilling to live by the rules of that forum to provide access to the very documents that it claims justify the protection of this “mark.”

C. There is No Objective Basis for the Designation.

As the Board has previously stated, “The Board has observed far too many cases in which the parties have improperly designated testimony and evidence as confidential that is not objectively confidential.” *Blackhorse v. Pro Football Inc.*, 98 USPQ 2d 1633, 1635 (TTAB 2011) (put history here); citing, *Edwards Lifesciences Corp. v. VigiLanz Corp.*, 94 USPQ 2d at 1402. None of the documents in question are objectively commercially sensitive or trade secret or muster an attorneys’ eyes only restriction. The documents are old documents, with no internal protections – relating to advertisements that were publicly displayed, and public marketing information that was provided to third parties in a public forum. There is no competitive advantage lost from the disclosure of these documents – and none has been articulated. Most certainly, none of the documents in question rises to the level of a “trade secret.” *Georgia-Pacific Corp. v. Solo Cup Co.*, 80 USPQ2d 1950 (TTAB 2006), n. 6. Yet, under the Standard Protective Order, because all of the documents are marked “trade secret,” even an expert witness cannot have access to them.

To show that any of the documents were truly “trade secrets”, as defined under the Uniform Trade Secrets Act (“UTSA”) as made applicable in the Commonwealth of Pennsylvania, where both parties are located,² Applicant would need to show that these documents consists of information that derives “independent economic value, actual or potential,

² The Commonwealth of Pennsylvania, where both Opposer and Applicant are located, follows the UTSA. 12 Pa. C.S. §5308. Under the UTSA, a trade secret is defined as “information, including a formula, pattern, compilation, program device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”

from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” [REDACTED]

[REDACTED] The information is not competitive information, and has *already* been disclosed publicly. Lesser Decl. ¶4; Ex. C. In fact, all of the documents at issue in this motion involve [REDACTED]

[REDACTED] Tellingly, Applicant has provided no internal or external confidentiality agreements or other marks of confidentiality which it could claim apply here.

D. The Following Documents Are Not “Trade Secret/Commercially Sensitive/Attorneys’ Eyes Only”

The documents at issue may be broken down into the following categories:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

See, Lesser Decl. ¶7, Ex. F.

ii. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Lesser Decl. ¶8, Ex. G.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

See, Lesser Decl. ¶9, Ex. H.

[REDACTED] Old, outdated marketing plans and proposals. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

See, Lesser Decl. ¶10, Ex. I.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

See, Lesser Decl. ¶11, Ex. J.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

k. [REDACTED]

See, Lesser Decl. at ¶12, Ex. K.

3. CONCLUSION

For the foregoing reasons, it is respectfully requested that upon *in camera* review, the Interlocutory Attorney redesignate these documents without any designation of confidentiality.

Dated: February 11, 2015

BAKER & HOSTETLER LLP



By: _____

Nancy R. Frandsen
Jacqueline M. Lesser
jlesser@bakerlaw.com
2929 Arch Street
Cira Centre, 12th Floor
Philadelphia, PA 19104-2891
Telephone: 215.564-2155
Facsimile: 215.568.3439

Attorneys for Larry Pitt & Associates, P.C.

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February, 2015, I caused a true and correct copy of the foregoing **REQUEST FOR REDESIGNATION OF DOCUMENTS MARKED “TRADE SECRET/COMMERCIALLY SENSITIVE/ATTORNEYS’ EYES ONLY”** to be served via email and by United States First Class Mail, addressed to:

Manny D. Pokotilow, Esq.
Caesar, Rivise, Bernstein, Cohen & Pokotilow
1635 Market Street
12th Floor
Seven Penn Center
Philadelphia, PA 19103
MPOKOTILOW@CRBCP.COM

/s/ Jacqueline M. Lesser

Jacqueline M. Lesser

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

LARRY PITT & ASSOCIATES, P.C.

Opposer,

v.

LUNDY LAW LLP

Applicant

Opposition No. 91210158

**DECLARATION IN SUPPORT OF IN CAMERA REQUEST FOR REVIEW OF
DOCUMENTS AND REQUEST FOR REDESIGNATION**

I, Jacqueline M. Lesser, hereby declare as follows:

1. I am an attorney associated with the firm of Baker & Hostetler, LLP, attorneys for Larry Pitt & Associates, P.C. ("Larry Pitt" or "Opposer") in the above-referenced Opposition. I submit this declaration in support of Opposer's Request For Redesignation Of Documents Marked "Trade Secret/Commercially Sensitive/Attorney's Eyes Only." I have first hand knowledge of the matters stated herein.
2. On November 11, 2014, I wrote to Applicant's counsel objecting to the wholesale designation of the second document production as "trade secret/commercially sensitive/attorneys' eyes only." A copy of this letter and follow up correspondence is attached hereto as Exhibit A. On or about December 9, 2014, Applicant's counsel advised by telephone that its client would not agree to redesignate the documents. Applicant's counsel offered no explanation.

3. On January 23, 2015, I wrote again to Applicant's counsel, seeking to resolve the re-designation dispute without recourse to the Board. A copy of this email is attached hereto as Exhibit B.
4. When I did not receive a response or acknowledgement, on January 30, 2015, I sent a detailed email to Applicant's counsel describing the documents that Opposer sought to be redesignated; and the basis for the redesignation. A copy of this correspondence is attached hereto as Exhibit C.
5. On February 9, 2015, after several reminders, counsel for Applicant advised that "I have finally spoken to our client today. Lundy Law, LLC does not consent to change of the designation of the documents marked as Trade Secret or Highly Confidential to which you referred in your email dated 1/30/2015." A copy of this correspondence is attached hereto as Exhibit D.
6. Counsel for Applicant further advised that his client would not agree to provide Ross Fishman, Opposer's already designated expert with access to these documents. A copy of this correspondence is attached hereto as Exhibit E.
7. Opposer seeks redesignation of the Spot Calendar and Confirmation of Spot Documents attached hereto as Exhibit F (Bates Nos. LUNDY01128; LUNDY01133-38; LUNDY01159-61; LUNDY01371-72; LUNDY01376-78; LUNDY01388-89; LUNDY01393-1536).
8. Opposer seeks redesignation of the Story Boards attached hereto as Exhibit G (Bates Nos. LUNDY01162-64; LUNDY01167-68; LUNDY01184-87; LUNDY01193; LUNDY01260-1314; LUNDY01630-31).

9. Opposer seeks redesignation of the Advertising Schedules attached hereto as Exhibit H (Bates Nos. LUNDY01194-1211; LUNDY01234-35).
10. Opposer seeks redesignation of the old, and outdated marketing plans and proposals attached hereto as Exhibit I (Bates Nos. LUNDY01165-66; LUNDY01188-92; LUNDY01252; LUNDY01254-56).
11. Opposer seeks redesignation of scripts for previously released ads attached hereto as Exhibit J (Bates Nos. LUNDY01212-26; LUNDY01236-51; LUNDY01253; LUNDY01257-59; LUNDY01379-84).
12. Opposer seeks redesignation of outdated marketing emails discussing publicly released plans and material attached hereto as Exhibit K (Bates Nos. LUNDY01315; LUNDY01316-17; LUNDY01347-59; LUNDY01360-64; LUNDY01370; LUNDY01374-75; LUNDY01390-91; LUNDY01549-85; LUNDY01632-33).
13. Counsel for both parties have made a good faith effort, by telephone conference, and email to resolve the issue presented for resolution. The parties have been unable to resolve their differences and therefore seek Board intervention.

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



Dated: February 13, 2015

By: _____
Jacqueline M. Lesser

EXHIBIT A



Baker&Hostetler LLP

2929 Arch Street
Cira Centre, 12th Floor
Philadelphia, PA 19104-2891

T 215.568.3100
F 215.568.3439
www.bakerlaw.com

Jacqueline M. Lesser
direct dial: 215.564.2155
JLesser@bakerlaw.com

November 11, 2014

VIA E-MAIL [MPOKOTILOW@CRBCP.COM]

Manny D. Pokotilow, Esq.
Caesar, Rivise, Bernstein, Cohen & Pokotilow, Ltd.
1635 Market Street
Seven Penn Center - 12th Floor
Philadelphia, PA 19103

Re: Larry Pitt Associates, P.C. v. Lundy Law, LLP
Opposition No. 91210158
Our File No. 101841.013790

Dear Manny:

As I am sure you are expecting, Larry Pitt will be filing and serving its Amended Notice of Opposition, as permitted by the Board's most recent order.

Now that the matter is no longer suspended, I wish to address outstanding discovery issues, and in particular Lundy Law's designation of its entire most recent production as 'trade secret/commercially sensitive/attorney's eyes only.' I have reviewed these documents, and I do not see any that are trade secret or commercially sensitive – and I do not believe that the attorney's eyes only designation is appropriate. The documents all deal with long-ago published ads.

We request that the following documents be re-designated:

Bates Nos. 1128; 1133 - 38; 1159 - 1161. **REDACTED**.

Bates Nos. 1162 - 64. **REDACTED**

Bates Nos. 1165 – 66; 1167 - 1183. **REDACTED**

Bates Nos. 1184 - 1187. **REDACTED**

Bates Nos. 1188 – 1192. **REDACTED**

Bates Nos. 1193. **REDACTED**.

Bates Nos. 1194 - 1211. **REDACTED**

Bates Nos. 1212 - 1226. **REDACTED**

Bates Nos. 1234 - 35. **REDACTED**

Bates Nos. 1236 - 51. **REDACTED**

Bates Nos. 1252; 1254 - 1256. **REDACTED**

Bates No. 1253. **REDACTED**

Bates Nos. 1254 - 1256. **REDACTED**

Bates Nos. 1257 - 1259. **REDACTED**

Bates Nos. 1260 - 1314. **REDACTED**

Bates No. 1315. **REDACTED**

Bates Nos. 1316 - 1326. **REDACTED**

Bates Nos. 1347 - 1353 **REDACTED**

Bates Nos. 1354 - 1357. **REDACTED**

Bates Nos. 1357 - 1359. **REDACTED**

Bates Nos. 1360 - 1363. **REDACTED**

Bates Nos. 1366 - 1369. **REDACTED**

Bates No. 1370. **REDACTED**

Bates Nos. 1371 -1372. **REDACTED**

Bates Nos. 1374 - 1375. **REDACTED**

Bates Nos. 1376 -1378. **REDACTED**

Bates Nos. 1379 - 1385. **REDACTED**

Bates Nos. 1388 -1389. **REDACTED**

Manny D. Pokotilow, Esq.
November 11, 2014
Page 3

Bates Nos. 1390 - 1391. **REDACTED**

Bates Nos. 1393 - 1536. **REDACTED**

Bates Nos. 1537 - 1548. **REDACTED**

Bates Nos. 1549 - 1599. **REDACTED**

Bates Nos. 1603 - 1629. **REDACTED**

Bates Nos. 1630. **REDACTED**

Bates Nos. 1632 - 1648. **REDACTED**

Please advise me whether you will re-designate these documents, this week. If you do not intend to redesignate these – I would like to set up a meet and confer this week or early next week.

I look forward to hearing from you.

Sincerely,



Jacqueline M. Lesser

JML/jw

Lesser, Jacqueline

From: Manny D. Pokotilow <mpokotilow@crbcp.com>
Sent: Monday, November 24, 2014 10:58 AM
To: Lesser, Jacqueline
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Jackie,

I will call today to see where he is with this and get back to you.

Best, Manny

From: Lesser, Jacqueline [mailto:JLesser@bakerlaw.com]
Sent: Monday, November 24, 2014 10:53 AM
To: Manny D. Pokotilow
Cc: Dale, Judy
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Manny,

Let me know whether you have heard from your client, and whether we can have a discussion this week about lifting the trade secret/highly confidential/attorney's eyes only designation.

Best,

Jackie

Jacqueline Lesser | BakerHostetler
2929 Arch Street | Cira Centre, 12th Floor | Philadelphia, PA 19104-2891
T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

From: Manny D. Pokotilow [mailto:mpokotilow@crbcp.com]
Sent: Friday, November 14, 2014 9:43 AM
To: Lesser, Jacqueline
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Jackie,

I have been advised that our client is out of town. I will not be able to get back to you on the request in your letter of Nov. 12 until next week.

Best regards, Manny

From: Williams, Clara Jackie [<mailto:CJWilliams@bakerlaw.com>]
Sent: Tuesday, November 11, 2014 10:58 AM
To: Manny D. Pokotilow
Cc: Lesser, Jacqueline
Subject: Opposition to Remember This Name (Our File No. 101841.013790)

Manny,

At the request of Jacqueline Lesser, please see the attached letter for your review. If you have any questions or comments, please feel free to contact us.

Thanks.

Clara J. Williams
Legal Secretary
BakerHostetler
2929 Arch Street
Cira Centre, 12th Floor
Philadelphia, PA 19104-2891
T 215.564.1224
F 215.568.3439
cjwilliams@bakerlaw.com

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EXHIBIT B

Lesser, Jacqueline

From: Lesser, Jacqueline
Sent: Friday, January 23, 2015 7:49 PM
To: 'Manny D. Pokotilow'
Cc: Dale, Judy
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Manny,

Happy New Year. I am following up on this – when we last spoke on December 10th, you advised me that your client was not going to voluntarily remove the “trade secret/commercially sensitive/attorneys’ eyes only” designation on the documents that I identified in my November 11th letter. I would like to discuss this further. You had not given me an explanation why your client believes the documents in question are trade secret, commercially sensitive, or attorneys’ eyes only. I’d like to – at the very least – understand the basis for your client’s refusal. The documents in question all relate to public materials, and public actions taken by your client in its advertising campaigns.

Would you revisit your refusal – and if you maintain your refusal, provide me with an explanation?

I look forward to hearing from you.

Best,

Jackie

Jacqueline Lesser | BakerHostetler

2929 Arch Street | Cira Centre, 12th Floor | Philadelphia, PA 19104-2891
T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

From: Manny D. Pokotilow [mailto:mpokotilow@crbcp.com]
Sent: Tuesday, December 09, 2014 4:08 PM
To: Lesser, Jacqueline
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

I understand. Not a problem.

From: Lesser, Jacqueline [mailto:JLesser@bakerlaw.com]
Sent: Tuesday, December 09, 2014 4:04 PM
To: Manny D. Pokotilow
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Thanks. I am hopeful that we can resolve this. But if we can’t resolve this – I will need to compel, dates are running.

Best,

Jackie

From: Manny D. Pokotilow [<mailto:mpokotilow@crbcp.com>]
Sent: Tuesday, December 09, 2014 4:02 PM
To: Lesser, Jacqueline
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Jackie,

I promise to get back to you as soon as possible. The next thing I do is to call him again.

Best regards, Manny

From: Lesser, Jacqueline [<mailto:JLesser@bakerlaw.com>]
Sent: Tuesday, December 09, 2014 3:57 PM
To: Manny D. Pokotilow
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Manny,

This follows our discussion last week about an answer to my questions regarding the designation of documents – please let me know your client’s position on re-designation. I am around all week to discuss.

Best,

Jackie

Jacqueline Lesser | BakerHostetler
2929 Arch Street | Cira Centre, 12th Floor | Philadelphia, PA 19104-2891
T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

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Cc: Dale, Judy
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Manny,

Let me know whether you have heard from your client, and whether we can have a discussion this week about lifting the trade secret/highly confidential/attorney's eyes only designation.

Best,

Jackie

Jacqueline Lesser | BakerHostetler
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T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

From: Manny D. Pokotilow [<mailto:mpokotilow@crbcp.com>]
Sent: Friday, November 14, 2014 9:43 AM
To: Lesser, Jacqueline
Subject: RE: Opposition to Remember This Name (Our File No. 101841.013790)

Jackie,

I have been advised that our client is out of town. I will not be able to get back to you on the request in your letter of Nov. 12 until next week.

Best regards, Manny

From: Williams, Clara Jackie [<mailto:CJWilliams@bakerlaw.com>]
Sent: Tuesday, November 11, 2014 10:58 AM
To: Manny D. Pokotilow
Cc: Lesser, Jacqueline
Subject: Opposition to Remember This Name (Our File No. 101841.013790)

Manny,

At the request of Jacqueline Lesser, please see the attached letter for your review. If you have any questions or comments, please feel free to contact us.

Thanks.

Clara J. Williams
Legal Secretary
BakerHostetler
2929 Arch Street
Cira Centre, 12th Floor
Philadelphia, PA 19104-2891
T 215.564.1224
F 215.568.3439
cjwilliams@bakerlaw.com

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EXHIBIT C

Lesser, Jacqueline

From: Lesser, Jacqueline
Sent: Friday, January 30, 2015 3:54 PM
To: mpokotilow@crbcp.com
Cc: Dale, Judy
Subject: Larry Pitt v. Lundy Law Opposition No. 91/210158

Manny,

I have not received a response to my email of a week ago, regarding my request that we revisit Lundy Law's designation of various documents as trade secret or highly confidential. I am hopeful that we can cut through much of the designations without the need of going to the Board to have them re-designated.

Since I haven't heard from you, perhaps, this will be an easier way to review the documents.

- **REDACTED**
- Bates Nos. 1128; 1133 - 38; 1159 - 1161. **REDACTED**
- 1128 **REDACTED**
- 1133 - 34 **REDACTED**
- 1135 - 38 **REDACTED**
- Bates Nos. 1371 -1372; 1376 -1378. **REDACTED**
- Bates Nos. 1388 -1389. **REDACTED**
- Bates Nos. 1393 - 1536. **REDACTED**
- **REDACTED**
Bates Nos. 1162 – 64; 1167; 1184 -87; 1193; 1260 – 1314;
1630. **REDACTED**

- **REDACTED** . Bates Nos. 1194 – 1211; 1234 - 35. **REDACTED**

- **REDACTED**

None of the following constitutes a trade secret or highly confidential information:

- Bates Nos. 1165 – 66 **REDACTED**
- Bates Nos. 1188 – 1192. **REDACTED**
- Bates Nos. 1252; 1254 - 1256. **REDACTED**

- **REDACTED**

None of this previously released material is a trade secret or highly confidential

- Bates Nos. 1212– 1226 **REDACTED**
- Bates Nos. 1236 – 51 **REDACTED**
- Bates No. 1253. **REDACTED**
- Bates Nos. 1257 - 1259. **REDACTED**
- Bates Nos. 1379 - 1385. **REDACTED**

- **REDACTED**

None of the following documents contain any trade secret or highly confidential information:

- Bates No. 1315 **REDACTED**
- Bates Nos. 1316 – 1317 **REDACTED**
- Bates Nos. 1347 – 1353, and 1354 – 1357 **REDACTED**

REDACTED

- Bates Nos. 1357 – 1359

REDACTED

- Bates Nos. 1360 - 1363.

REDACTED

- Bates No. 1370.

REDACTED

- Bates Nos. 1374 - 1375.

REDACTED

- Bates Nos. 1390 - 1391.

REDACTED

- Bates Nos. 1549 - 1583

REDACTED

- Bates Nos. 1583 - 1584

REDACTED

- Bates Nos. 1632 --1633

REDACTED

- **Documents to be redacted.**

The following documents have particular confidential information that we agree to redact upon redesignation of these documents, removing the trade secret/highly confidential designations:

- Bates Nos. 1603 - 1629.

REDACTED

- Bates Nos. 1634 – 1639.

REDACTED

- Bates Nos. 1537 - 1548.

REDACTED

- Bates Nos. 1188 – 1192.

REDACTED

- Bates Nos. 1252; 1254 - 1256. **REDACTED**
REDACTED
- Bates Nos. 1366 – 1369. **REDACTED** 1366 – 1369. **REDACTED**
REDACTED

I look forward to hearing from you

Best,

Jackie

My Bio	Web site	vCard
T 215.564.2155 F 215.568.3439 www.bakerlaw.com	Jacqueline Lesser jlesser@bakerlaw.com	BakerHostetler 2929 Arch Street Cira Centre, 12th Floor Philadelphia, PA 19104-2891 BakerHostetler

EXHIBIT D

Lesser, Jacqueline

From: Manny D. Pokotilow <mpokotilow@crbcp.com>
Sent: Monday, February 09, 2015 3:50 PM
To: Lesser, Jacqueline
Subject: Larry Pitt v. Lundy Law Opposition No. 91/210158

Jackie,

I have finally spoken to our client today. Lundy Law, LLC does not consent to change of the designation of the documents marked as Trade Secret or Highly Confidential to which you referred in your email dated 1/30/2015.

Best regards, Manny

Manny D. Pokotilow



7 Penn Center · 12th Floor
1635 Market Street · Philadelphia, PA 19103-2212
☎ 215-567-2010 · 📠 215-751-1142 · 💻 www.crbcp.com

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EXHIBIT E

Lesser, Jacqueline

From: Manny D. Pokotilow <mpokotilow@crbcp.com>
Sent: Monday, February 09, 2015 3:57 PM
To: Lesser, Jacqueline
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Jackie,

Yes, our client does not consent to Mr. Fishman reviewing the documents.

Manny

From: Lesser, Jacqueline [mailto:JLesser@bakerlaw.com]
Sent: Monday, February 09, 2015 3:52 PM
To: Manny D. Pokotilow
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Manny,

Thanks for getting back to me.

Is your answer the same for providing access to the expert witness already identified, Ross Fishman?

Best,

Jackie

Jacqueline Lesser | BakerHostetler
2929 Arch Street | Cira Centre, 12th Floor | Philadelphia, PA 19104-2891
T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

From: Manny D. Pokotilow [mailto:mpokotilow@crbcp.com]
Sent: Monday, February 09, 2015 3:50 PM
To: Lesser, Jacqueline
Subject: Larry Pitt v. Lundy Law Opposition No. 91/210158

Jackie,

I have finally spoken to our client today. Lundy Law, LLC does not consent to change of the designation of the documents marked as Trade Secret or Highly Confidential to which you referred in your email dated 1/30/2015.

Best regards, Manny

Manny D. Pokotilow



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1635 Market Street · Philadelphia, PA 19103-2212

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Lesser, Jacqueline

From: Manny D. Pokotilow <mpokotilow@crbcp.com>
Sent: Friday, February 06, 2015 4:06 PM
To: Lesser, Jacqueline
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Jackie,

I have to wait for Len to get back. I will be speaking with him on Monday. I will get back to you on the designations of the documents as soon as Len and I are able to speak. In the meantime I cannot agree at this time to your disclosing these documents or information contained therein to experts or consultants.

Best regards, Manny

From: Lesser, Jacqueline [<mailto:JLesser@bakerlaw.com>]
Sent: Friday, February 06, 2015 2:33 PM
To: Manny D. Pokotilow
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Manny,

Can you check to see whether Leonard is available on alternative dates in February – discovery closes on March 16th. Also, what about the 30(b)6 witness?

Additionally – any word on the requested redesignation of documents? If you have no word as of yet – I'd like to know that our expert can review the documents in the meantime.

Please advise.

Best,

Jackie

Jacqueline Lesser | BakerHostetler
2929 Arch Street | Cira Centre, 12th Floor | Philadelphia, PA 19104-2891
T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

From: Manny D. Pokotilow [<mailto:mpokotilow@crbcp.com>]
Sent: Thursday, February 05, 2015 2:44 PM
To: Lesser, Jacqueline
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Jackie,

I just called the office and finally was able to speak to his assistant. I found out that Leonard will be out of the office until Monday. With respect to the dates for the deposition, Leonard will not be in the city on the two dates that you noticed. According to his assistant he is presently available on March 10, 18 and 23rd. Please let me know if any of those days work for you. I will speak with him about the document's confidentiality on Monday when he gets back.

Best regards, Manny

From: Lesser, Jacqueline [<mailto:JLesser@bakerlaw.com>]
Sent: Wednesday, February 04, 2015 5:23 PM
To: Manny D. Pokotilow
Cc: Dale, Judy
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Manny,

Have you heard from your client yet?

If you haven't – in the meantime, would you agree that experts may have access to documents that you have designated as highly confidential and trade secret?

I look forward to hearing from you.

Best,

Jackie

Jacqueline Lesser | BakerHostetler
2929 Arch Street | Cira Centre, 12th Floor | Philadelphia, PA 19104-2891
T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

From: Manny D. Pokotilow [<mailto:mpokotilow@crbcp.com>]
Sent: Friday, January 30, 2015 4:04 PM
To: Lesser, Jacqueline
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

And You too!

From: Lesser, Jacqueline [<mailto:JLesser@bakerlaw.com>]
Sent: Friday, January 30, 2015 4:02 PM
To: Manny D. Pokotilow
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Thanks Manny.

Have a good weekend.

Best,

Jackie

Jacqueline Lesser | BakerHostetler

2929 Arch Street | Cira Centre, 12th Floor | Philadelphia, PA 19104-2891
T 215.564.2155 | F 215.568.3439
jlesser@bakerlaw.com

From: Manny D. Pokotilow [<mailto:mpokotilow@crbcp.com>]
Sent: Friday, January 30, 2015 4:01 PM
To: Lesser, Jacqueline
Subject: RE: Larry Pitt v. Lundy Law Opposition No. 91/210158

Jackie,

Thanks for your note. I also acknowledge receipt today of the notices of deposition for Feb. 24. I just returned to the office yesterday and called our client. I was just advised that he will be out of town until next week. I am forwarding your email to him in the hope of getting an answer sooner.

Best regards, Manny

From: Lesser, Jacqueline [<mailto:JLesser@bakerlaw.com>]
Sent: Friday, January 30, 2015 3:54 PM
To: Manny D. Pokotilow
Cc: Dale, Judy
Subject: Larry Pitt v. Lundy Law Opposition No. 91/210158

Manny,

I have not received a response to my email of a week ago, regarding my request that we revisit Lundy Law's designation of various documents as trade secret or highly confidential. I am hopeful that we can cut through much of the designations without the need of going to the Board to have them re-designated.

Since I haven't heard from you, perhaps, this will be an easier way to review the documents.

- **REDACTED**
- Bates Nos. 1128; 1133 - 38; 1159 - 1161. **REDACTED**
- 1128 **REDACTED**

- 1133 - 34 is **REDACTED**
- 1135 - 38 **REDACTED**
- Bates Nos. 1371 -1372; 1376 -1378. **REDACTED**
- Bates Nos. 1388 -1389. **REDACTED**
- Bates Nos. 1393 - 1536. **REDACTED**

- **REDACTED**
REDACTED Bates Nos. 1162 – 64; 1167; 1184 -87; 1193; 1260 – 1314; 1630. **REDACTED**
REDACTED

- **REDACTED** Bates Nos. 1194 – 1211; 1234 - 35. **REDACTED**
REDACTED

- **REDACTED**

None of the following constitutes a trade secret or highly confidential information:

- Bates Nos. 1165 – 66 **REDACTED**
- Bates Nos. 1188 – 1192. **REDACTED**
- Bates Nos. 1252; 1254 - 1256. **REDACTED**

- **REDACTED**

None of this previously released material is a trade secret or highly confidential

- Bates Nos. 1212– 1226 **REDACTED**
- Bates Nos. 1236 – 51 **REDACTED**
- Bates No. 1253. **REDACTED**

o Bates Nos. 1257 - 1259.

REDACTED

o Bates Nos. 1379 - 1385.

REDACTED

• **REDACTED**

None of the following documents contain any trade secret or highly confidential information:

o Bates No. 1315

REDACTED

o Bates Nos. 1316 – 1317

REDACTED

o Bates Nos. 1347 – 1353, and 1354 – 1357

REDACTED

o Bates Nos. 1357 – 1359

REDACTED

o Bates Nos. 1360 - 1363.

REDACTED

o Bates No. 1370.

REDACTED

o Bates Nos. 1374 - 1375.

REDACTED

o Bates Nos. 1390 - 1391.

REDACTED

o Bates Nos. 1549 - 1583

REDACTED

o Bates Nos. 1583 - 1584

REDACTED

o Bates Nos. 1632 --1633

REDACTED

REDACTED

- **Documents to be redacted.**

The following documents have particular confidential information that we agree to redact upon redesignation of these documents, removing the trade secret/highly confidential designations:

- Bates Nos. 1603 - 1629. **REDACTED**
- Bates Nos. 1634 – 1639. **REDACTED**
- Bates Nos. 1537 - 1548. **REDACTED**
- Bates Nos. 1188 – 1192. **REDACTED**
- Bates Nos. 1252; 1254 - 1256. **REDACTED**
- Bates Nos. 1366 – 1369. **REDACTED** 1366 – 1369. **REDACTED**

I look forward to hearing from you

Best,

Jackie

My Bio	Web site	vCard
T 215.564.2155 F 215.568.3439 www.bakerlaw.com	Jacqueline Lesser jlessen@bakerlaw.com	BakerHostetler 2929 Arch Street Cira Centre, 12th Floor Philadelphia, PA 19104-2891
BakerHostetler		

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EXHIBIT F

(Filed Under Seal)

EXHIBIT G

(Filed Under Seal)

EXHIBIT H

(Filed Under Seal)

EXHIBIT I

(Filed Under Seal)

EXHIBIT J

(Filed Under Seal)

EXHIBIT K

(Filed Under Seal)