

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

BRUCE MANDARO, DBA SLIPKNOT)

Petitioner,)

v.)

SLIPKNOT, INCORPORATED,)

Registrant.)

Cancellation No. 92041310

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TRADEMARK TRIAL AND
APPEAL BOARD

STIPULATED PROTECTIVE ORDER

IT IS HEREBY stipulated and agreed by and between counsel for the parties that the terms and conditions of this Stipulated Protective Order shall govern the handling of documents, answers to interrogatories, depositions, pleadings, exhibits and other information exchanged by the parties in the above-styled cancellation proceeding.

It is hereby **ORDERED** as follows:

1. This Order shall be applicable to and govern all depositions, documents and information produced in response to requests for production of documents, answers to interrogatories, responses to requests for admissions and all other discovery taken pursuant to the Trademark Rules of Practice (37 C.F.R. *et seq.*), as well as testimony adduced at trial, matters in evidence and other information which the disclosing party designates as "CONFIDENTIAL" or "RESTRICTED CONFIDENTIAL" hereafter furnished, directly or indirectly, by or on behalf of any party in connection with this proceeding.

2. A party shall designate as "Confidential Material" or "Restricted Confidential Material," or such similar designations agreed upon by the parties, only those materials

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which that party in good faith believes constitutes material used by it in, or pertaining to, its business which matter is not generally known and which the party would normally not reveal to third parties or would cause third parties to maintain in confidence. Confidential Material and Restricted Confidential Material shall be used by any recipient solely for the purpose of conducting this litigation and not for any other purpose whatsoever.

3. Information designated as "Confidential Material" may be disclosed only to the following persons:

a. The attorneys working on this proceeding on behalf of any party, including all in-house counsel, paralegal assistants, stenographic and clerical employees working under the direct supervision of such counsel;

b. any person not employed by a party who is expressly retained or sought to be retained by any attorney described in paragraph 3(a) to assist in preparation of this action for trial, with disclosure only to the extent necessary to perform such work;

c. any director, officer, employee, or agent (including, specifically, the Registrant's manager and representatives of its record label) of the party who is required by such party to work directly on this litigation, with disclosures only to the extent necessary to perform such work;

d. any person of whom testimony is taken, except that such person may only be shown copies of Confidential Material during his testimony, and may not retain any Confidential Material; and,

e. the U.S. Trademark Trial and Appeal Board (hereinafter "the Board").

4. Any Confidential Material which a party or third party believes should not be disclosed to a director, officer or employee of the other party may be designated by the

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party through its counsel at the time of disclosure of such information as "Restricted Confidential Material." The parties contemplate that Restricted Confidential Material shall include, for example, financial data, sales and advertising figures, current and future business plans, client lists, or names of potential client contacts.

5. Information designated as "Restricted Confidential Material" may be disclosed only to the following persons:

a. the attorneys working on this proceeding on behalf of any party, including in-house counsel, all paralegal assistance, stenographic and clerical employees working under the direct supervision of such counsel;

b. any person not employed by a party who is expressly retained or sought to be retained by any attorney described in paragraph 5(a) to assist in preparation of this action for trial, with disclosure only to the extent necessary to perform such work;

c. any person of whom testimony is taken, provided that application shall be made to opposing counsel for permission to disclose information designated as "Restricted Confidential" prior to any such disclosure, which permission will not be unreasonably withheld and any disputes over the withholding of permission will be presented to the Board for resolution and provided that such person may only be shown copies of Restricted Confidential Material during his/her testimony and may not retain any such material; and,

d. the Board.

6. The persons described in paragraphs 3(b), (c) and (d) shall have access to the Confidential Material and the persons described in paragraphs 5 (b) and (c) shall have access to the Restricted Confidential Material once they have been made aware of the

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provisions of this Order and have manifested their assent to be bound thereby by signing a copy of the annexed "ACKNOWLEDGEMENT." A list shall be maintained by counsel of the names of all persons to whom Confidential Material or Restricted Confidential Material is disclosed, and such list shall be available for inspection by the Board upon good cause shown by opposing counsel. Similar, but separate lists shall also be maintained with respect to Confidential Material or Restricted Confidential Material provided by third parties. At the time of termination of this proceeding by settlement, judgement or otherwise, the parties hereto shall provide other counsel with a copy of the pertinent aforementioned lists. The persons receiving Confidential Material or Restricted Confidential Material are enjoined from disclosing it to any other person, except in conformance with this Order.

7. Each individual who receives any Confidential or Restricted Confidential Material under this Order hereby agrees to subject himself/herself to the jurisdiction of the Board for the purpose of any proceedings relating to the performance under, compliance with or violation of this Protective Order.

8. The recipient of any Confidential or Restricted Confidential Material that is provided under this Order shall maintain such information confidential in accordance with the ACKNOWLEDGEMENT attached to this STIPULATED PROTECTIVE ORDER.

9. Parties shall designate Confidential or Restricted Confidential Material as follows:

a. In a case of documents, interrogatory answers, responses to requests to admit, and the information contained therein, designation shall be made by placing the following legend on any such document prior to production: "CONFIDENTIAL

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MATERIAL" or "RESTRICTED CONFIDENTIAL MATERIAL." In the event that a party inadvertently fails to stamp or otherwise designate a document or the information as "Confidential" or "Restricted Confidential" at the time of its production, that party shall have five (5) business days after such production to so stamp or otherwise designate the document or other information;

b. In the case of depositions, designation of the portion of the transcript (including exhibits) which contains Confidential Material or Restricted Confidential Material shall be made by a statement to such effect on the record in the course of the deposition or upon review of such transcript by counsel for the party to whose Confidential Material or Restricted Confidential Material the deponent has had access. Said review by counsel shall occur within thirty days after counsel's receipt of the transcript. If review of the deposition is chosen, counsel shall list on a separate piece of paper the numbers of the pages of the transcript containing Confidential Material or Restricted Confidential Material, inserting the list at the end of the transcript, and mailing copies of the list to counsel for all parties so that it may be affixed to the face of the transcript and each copy thereof. Pending such designation by counsel, the entire deposition transcript, including exhibits, shall be deemed Confidential Material, unless counsel during the deposition states that the information is Restricted Confidential Material;

c. Transcripts of discovery depositions designated under this Order will not be filed with the Board unless it is necessary to do so for purposes of motions, trial, motions for summary judgment, or other matters. If a discovery deposition transcript is filed and if it contains Confidential Material or Restricted Confidential Material, the

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transcript shall bear the appropriate legend on the caption page and shall be filed under seal.

10. A party shall not be obligated to challenge the propriety of a Confidential Material or Restricted Confidential Material designation at the time made, and failure to do so shall not preclude a subsequent challenge thereto. In the event that any party to this litigation disagrees at any stage of these proceedings with such designation, such party shall provide to the producing party ten days prior written notice of this disagreement with the designation. The parties shall first try to dispose of such dispute in good faith on an informal basis. If the dispute cannot be resolved, the party challenging the designation may request appropriate relief from the Board following the specified ten day period. The burden of proving that information has been properly designated as Confidential Material or Restricted Confidential Material is directly on the party making such designation.

11. The Board will maintain under seal all documents and all transcripts of deposition testimony filed in this litigation by any party which are, in whole or in part, designated as Confidential Material or Restricted Confidential Material, including all pleadings, deposition transcripts, exhibits, discovery responses or memoranda purporting to reproduce or paraphrase such information. The person filing such material shall designate to the Board that all or a designated portion thereof is subject to this Order and is to be kept under seal, except that upon the default of the filing party to so designate, any party may do so.

12. In the event that any Confidential Material or Restricted Confidential Material is used in any legal proceeding in connection with this litigation, it shall not lose its

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Confidential or Restricted Confidential status through such use, and the parties shall take all steps reasonably required to protect its confidentiality during such use.

13. Nothing in this Order shall preclude any party to the cancellation proceeding, their attorneys or any other person from disclosing or using, in any manner or for any purpose, any information or documents not obtained in discovery in this lawsuit, if such information is lawfully obtained from a third party having the right to disclose such information, even though the same information or documents may have been produced in discovery in this proceeding and designated as Confidential Material or Restricted Confidential Material.

14. Nothing in this Order shall preclude any party to the proceeding or their attorneys: (a) from showing a document designated as Confidential Material or Restricted Confidential Material to an individual who either prepared or reviewed the document prior to the filing of this action; or (b) from disclosing or using, in any manner or for any purpose, any information or documents from the party's own files which the party itself has designated as Confidential Material or Restricted Confidential Material.

15. Within sixty (60) days of the termination of the above-styled proceeding involving the parties, all Confidential Material, all Restricted Confidential Material and all copies thereof shall be returned to the party which produced it or, at the producing party's election, be destroyed.

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16. The Stipulated Protective Order is without prejudice to the right of either party to seek relief from the Board, upon good cause shown, from any of the provisions contained in Paragraphs 1, through 15, inclusive, hereof.

BRUCE MANDARO

Date: March 10
February __, 2003

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ATTORNEYS FOR PETITIONER

SLIPKNOT, INCORPORATED

Date: March 6, 2003

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ATTORNEYS FOR REGISTRANT

