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

In the Matter of Application Serial No. 76/026,184  
Mark: FARM LIVING  
Published in the Official Gazette on January 2, 2001

REIMAN PUBLICATIONS, LLC,

Opposer,

v.

Opposition No. 150,075

FARM LIVING, INC.,

Applicant.

02 OCT 22 PM 12:43  
TELETYPE UNIT  
COMMUNICATIONS SECTION

**BRIEF IN OPPOSITION TO APPLICANT'S  
MOTION TO RESUME PROCEEDINGS *NUNC PRO TUNC***

Opposer Reiman Publications LLC opposes Applicant's Motion to Resume Proceedings *Nunc Pro Tunc* Under TTAB Rule 510. Reiman wants to resume proceedings, but asks the Board to set a new 30-day testimony for our client, the party in position of plaintiff, and to reset the other testimony periods accordingly.

For its trial testimony, Reiman Publications intended to rely solely on the testimony of Jeffrey Anderson, the Senior Vice President and Chief Executive Officer of Reiman Publications. (Declaration of Nathan D. Jamison at ¶ 2.) Due to difficulties in scheduling Mr. Anderson's trial deposition at a time convenient for all sides, the parties filed four separate Stipulations to Extend Time for the Taking of Testimony. (Jamison Dec. at ¶ 3.) At the time that each of these stipulations was filed, their only purpose was to extend the trial testimony period to take Mr. Anderson's deposition. (Jamison Dec. at ¶ 4.)

Upon receiving the second and third stipulations for extension of time from the parties, the Board suspended proceedings in this action for six months in an order dated July 26, 2002.

Unaware of the suspension order, the parties filed the fourth stipulation on July 25, 2002, requesting that the testimony period for the party in the position of plaintiff close on August 27, 2002, to allow the trial deposition of Jeffrey Anderson to be taken on August 22, 2002. (Jamison Dec. at ¶ 4.)

Prior to Mr. Anderson's deposition, the parties informally agreed to take the deposition despite the suspension order entered by the Board. The parties further agreed to jointly request that the Board resume proceedings before the end of the six-month period. (Jamison Dec. at ¶ 5.)

The circumstances leading to this informal agreement changed, however, at Mr. Anderson's trial deposition on August 22. Counsel for Reiman Publications had marked at the deposition as an exhibit a document prepared by employees of Reiman Publications under the supervision of Mr. Anderson. The document was a summary of voluminous financial information. (Jamison Dec. at ¶ 6.) Counsel for Farm Living objected to the admission of the exhibit into evidence, arguing that a sufficient foundation had not been made because the Reiman Publications employee who physically prepared the document had not testified. (Jamison Dec. at ¶ 7.)

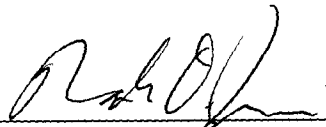
By letter dated September 13, 2002, counsel for Reiman Publications asked counsel for Farm Living to stipulate to the taking a brief deposition of the employee who prepared the document or to stipulate to the admissibility of the document to eliminate any possible objection to the admissibility of the document. (Jamison Dec. at ¶ 8.) Counsel for Farm Living responded to that request by filing the present motion.

Reiman Publications would like the opportunity to take the trial deposition of the employee who prepared the document to avoid any possible objection to the admissibility of the document. Reiman Publications therefore requests that the Board order that proceedings be

resumed and that the testimony dates, including the 30-day testimony period for the party in position of plaintiff, be reset. Reiman Publications also requests that the Board give effect to the informal agreement of the parties and allow Mr. Anderson's trial deposition to be used as evidence, despite being taken while the proceedings were suspended.

Dated: October 8, 2002.

MARTA S. LEVINE  
DAVID R. CROSS  
NATHAN D. JAMISON



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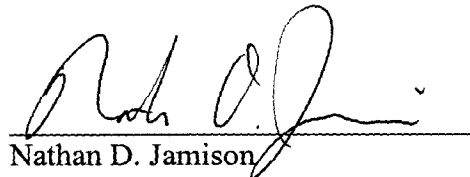
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414.277.5000

Attorneys for Opposer  
Reiman Publications, L.L.C.

Certificate of Service and Mailing

I hereby certify that this document (in triplicate) is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Box TTAB NO FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, and a copy of this document is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Robert M. Schwartz, Esq., Ruden, McClosky, Smith, Schuster & Russell, 200 East Broward Boulevard, Fort Lauderdale, FL 33301.

Date of signature and deposit: October 8, 2002



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Nathan D. Jamison

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

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REIMAN PUBLICATIONS, LLC,

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v.

Opposition No. 150,075

FARM LIVING, INC.,

Applicant.

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**DECLARATION OF NATHAN D. JAMISON**

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1. I, Nathan D. Jamison, am an attorney representing Opposer Reiman Publications LLC in this matter.

2. For its trial testimony, Reiman Publications intended to rely solely on the testimony of Jeffrey Anderson, Senior Vice President and Chief Officer of Reiman Publications.

3. The parties filed four separate stipulations to extend time for taking testimony. All of these extensions were requested due to difficulties in scheduling Mr. Anderson's trial deposition at a time convenient for all sides.

4. The last of these stipulations was filed on July 25, 2002, requesting that the testimony period of the party in the position of plaintiff close on August 27, 2002. A copy of this stipulation to extend time is attached as Exhibit A. This stipulated extension was requested to allow the trial deposition of Jeffrey Anderson to be held on August 22, 2002.

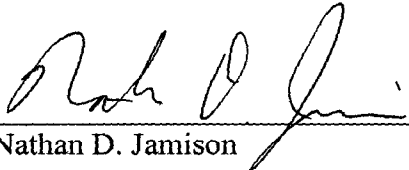
5. Prior to Mr. Anderson's deposition, the parties informally agreed to take the deposition despite the suspension order entered by the Board. The parties further agreed to jointly request that the Board resume proceedings before the end of the six-month period.

6. At Mr. Anderson's trial deposition on August 22, 2002, counsel for Reiman Publications had marked at the deposition as an exhibit a summary of voluminous financial information prepared by employees of Reiman Publications under the supervision of Mr. Anderson.

7. Counsel for Farm Living objected to the admission of the exhibit into evidence, arguing that a sufficient foundation had not been made because the Reiman Publications employee who prepared the document had not testified.

8. By letter dated September 13, 2002, counsel for Reiman Publications asked counsel for Farm Living to stipulate to the taking a brief deposition of the employee who prepared the document or to stipulate to the admissibility of the document to eliminate any possible objection to the admissibility of the document. A copy of this letter is attached as Exhibit B.

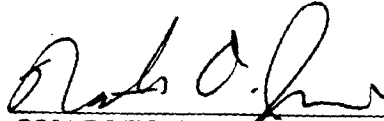
I declare under penalty of perjury that the foregoing is true and correct. Executed on October 8, 2002.

  
Nathan D. Jamison

Matthew Nelles of Ruden, McClosky, Smith, Schuster & Russell, P.A. agreed to this 15-day extension of all discovery by email on July 25, 2002.

Dated: July 25, 2002.

MARTA S. LEVINE  
DAVID R. CROSS  
NATHAN D. JAMISON



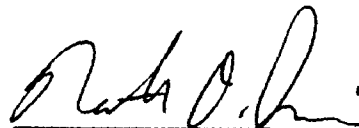
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Attorneys for Opposer  
Reiman Publications, L.L.C.

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Date of signature and deposit: July 25, 2002



Nathan D. Jamison



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September 13, 2002

**VIA FACSIMILE (954-333-4252)  
AND U. S. MAIL**

Robert M. Schwartz, Esq.  
Ruden, McClosky, Smith, Schuster & Russell, P.A.  
200 East Broward Boulevard  
Fort Lauderdale, FL 33301

**RE: Reiman Publications LLC v. Farm Living, Inc.  
Opposition No. 150,075**

Dear Robert:

This is in response to your letter of September 11. As you know, proceedings in this matter have been suspended by the TTAB. We had informally agreed before Jeff Anderson's deposition that we would request the TTAB to resume the proceedings and reset the testimony periods, with our testimony period to end just after Jeff Anderson's deposition.

We established this schedule, however, before you raised objections during the deposition regarding the admissibility of one of our exhibits. While we believe that we have laid a sufficient foundation and that your objections are groundless, we would like the opportunity to ensure the admissibility of the exhibit by conducting one additional, very short deposition.

Your insistence that we request the TTAB to reset the testimony periods in such a way as to prevent us from taking a deposition that is necessary only because of your objections is pettifoggery. You could solve this problem by either allowing us the opportunity to take a short deposition, at which you could appear by telephone or by withdrawing your objection to the admissibility of the exhibit. Keep in mind that when the TTAB resumes proceedings, it will reset our testimony period as well.

Please let me know how you plan to proceed. We would appreciate a response by September 18.

With regard to the issue of which portions of Jeff Anderson's testimony should be treated as confidential, we agree with your plan to treat the sections designated in your September 11 letter as "confidential – attorney's eyes only."

Robert M. Schwartz, Esq.  
Ruden, McClosky, Smith, Schuster & Russell  
September 13, 2002  
Page 2

Please do not hesitate to contact me if you have any questions.

Sincerely,

QUARLES & BRADY LLP



Nathan D. Jamison

NJAMISON:crpp  
Enclosure