

TTAB

01-27-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #01

IN 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. 91/150,075

FARM LIVING, INC.,

Applicant.

**SUPPLEMENTAL RESPONSE IN OPPOSITION TO APPLICANT'S MOTION TO
QUASH NOTICE OF TRIAL DEPOSITION OF JUDITH A. WOLF**

BOX TTAB
NO FEE
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Opposer Reiman Publications LLC submits the following additional information in opposition to Farm Living, Inc.'s Motion to Quash Notice of Trial Deposition of Judith A. Wolf:

1. The trial deposition of Judith Wolf was taken by counsel for Reiman Publications LLC at 1:30 p.m. CST on Monday, January 20, 2003. The deposition lasted approximately one hour. The entire subject matter of her deposition consisted of laying the evidentiary foundation for the document to which Farm Living, Inc. objected during the deposition of Jeffrey Anderson.

2. All of the documents that were used as exhibits during the deposition of Judith Wolf were sent to counsel for Farm Living, Inc. by facsimile and by overnight delivery on Friday, January 17, 2003. Counsel for Reiman Publications LLC also sent a letter facsimile to

counsel for Farm Living, Inc. on Friday, January 17 in which it offered to reschedule Ms. Wolf's deposition to a more convenient time.

3. Counsel for Reiman Publications attempted unsuccessfully to contact counsel for Farm Living, Inc. by telephone twice on the day of Ms. Wolf's deposition: once in the morning and once immediately before the deposition.

4. Farm Living, Inc. has never responded to any of our attempts to reschedule Ms. Wolf's deposition. It is clear that Farm Living, Inc. is attempting to exclude the disputed document from evidence through pettifoggery. Reiman Publication LLC therefore respectfully requests that Farm Living, Inc.'s Motion to Quash Notice of Trial Deposition of Judith Wolf be denied in its entirety.

Dated this 24th day of January, 2003.

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



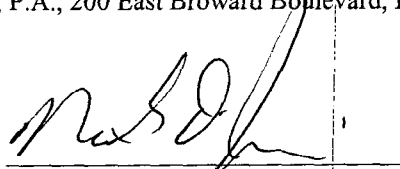
QUARLES & BRADY LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202-4497
414.277.5000

Attorneys for Opposer
Reiman Publications, LLC

CERTIFICATE OF SERVICE AND MAILING

I hereby certify that the original and two copies of this Supplemental Response to Applicant's Motion to Quash Notice of Trial Deposition of Judith A. Wolf are being deposited (with sufficient postage) with the United States Postal Service as first class mail in an envelope addressed to: BOX TTAB, NO FEE, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3513, and a copy of this document is being deposited (with sufficient postage) with the United States Postal Service as first class mail in an envelope addressed to: Robert M. Schwartz, Esq., Ruden, McClosky, Smith, Schuster & Russell, P.A., 200 East Broward Boulevard, Fort Lauderdale, Florida 33301, all on the date stated below:

Date of signature and deposit: January 24, 2003



Nathan D. Jamison



411 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4497
Tel +14.277.5000
Fax +14.271.3552
www.quarles.com

Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples and Boca Raton, Florida
Chicago, Illinois (Quarles & Brady LLC)
Milwaukee and Madison, Wisconsin

Writer's Direct Dial: 414.277.5111
Writer's Direct Fax: 414.978.8901
E-Mail: njamison@quarles.com

January 17, 2003

01-27-2003

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VIA FACSIMILE (954-333-4252) and Next Day Air

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 Mr. Schwartz:

The deposition of Judith Wolf scheduled for Monday, January 20 is intended solely to have her lay the foundation for the summary of financial information to which you objected during the trial testimony of Jeff Anderson. We will shortly send you a copy of all of the business records on which Ms. Wolf relied in preparing the summary. If you have scheduling issues that prevent you from appearing by telephone on Monday, we are willing to reschedule Ms. Wolf's deposition to Tuesday (or any other convenient date, provided you would stipulate to an extension of our trial period to include that date). If you choose not to attend, we will go forward with Ms. Wolf's deposition.

In Jean Patou Inc. v. Theon Inc., 18 U.S.P.Q.2d 1072 (TTAB 1991), the TTAB was faced with a similar situation. In that case, the TTAB allowed such a deposition to be introduced into evidence subject to the ability of the adverse party to cross-examine the witness and make objections to the testimony at a later date. We do not see why the TTAB should treat this case any differently.

Please let us know if you wish to participate in Ms. Wolf's deposition as noticed or if you would participate if it were moved to Tuesday.

Robert M. Schwartz, Esq.
Ruden, McClosky, Smith, Schuster & Russell
January 17, 2003
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Sincerely,

QUARLES & BRADY LLP



Nathan D. Jamison

NJAMISON:crpp
Enclosure



411 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-4497
Tel 414.277.5000
Fax 414.271.3552
www.quarles.com

Attorneys at Law in:
Phoenix and Tucson, Arizona
Naples and Boca Raton, Florida
Chicago, Illinois (Quarles & Brady LLC)
Milwaukee and Madison, Wisconsin

Writer's Direct Dial: 414.277.5111
Writer's Direct Fax: 414.978.8901
E-Mail: njamison@quarles.com

January 20, 2003



01-27-2003

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**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 Mr. Schwartz:

We took the trial deposition of Judith A. Wolf this afternoon pursuant to the notice of deposition that we sent to you last week. The deposition lasted about an hour. We attempted to contact you twice by telephone, including immediately before the deposition, to give you an opportunity to appear by telephone.

If you would like a transcript of the deposition, please contact the court reporter directly at the following address: Melody D. West, W.138 S.7143 Sherwood Circle, Muskego, WI 53150-5200, Ph. 262-425-9399.

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

Sincerely,

QUARLES & BRADY LLP

Nathan D. Jamison

NJAMISON:crpp
Enclosure