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

Proceeding	91154043
Party	Defendant Gebr. Hoffmann AG. Gebr. Hoffmann AG. Eisenbahnstrasse 71 CHX CH-3601 Thun,
Correspondence Address	J. STEPHEN SIMMS SIMMS SHOWERS LLP 20 S CHARLES ST, STE 702 BALTIMORE, MD 21201
Submission	Motion for Protective Order Regarding Discovery Material
Filer's Name	J. Stephen Simms
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Signature	J. Stephen Simms
Date	12/31/2003
Attachments	123103 Motion for protective order.pdf (8 pages)

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

Lanco Corporation	)	
Opposer,	)	
	)	Opposition No. 91/154,043
v.	)	
Hoffman Neopac A.G. f/k/a Gebr. Hoffman A.G.	)	Ser. No. 75/545,553 Mark: Miscellaneous Design
Applicant.	)	

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MOTION FOR PROTECTIVE ORDER
REGARDING DISCOVERY MATERIAL

Applicant, Hoffman Neopac A.G. hereby moves pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, Trademark Rule §2.120(f), and TBMP § 416.04 for a Protective Order regarding certain discovery materials requested by Opposer, Lanco Corporation, and which in turn Lanco or any other party, may seek in connection with this action, and in support thereof states the following:

In its First Set of Requests for Production of Documents and Things propounded upon Applicant, Opposer requested documents and things regarding, among other things, any and all specifications and technical documentation for Applicant's goods and products currently in public use, and those for future production and sale.

Opposer also requested (1) Applicant's proposed future usage of the Mark in question, (2) all past, present and/or future product development plans, marketing plans, advertising plans, and business plans for goods and products currently in public use, and those not yet publicly used, and (3) materials regarding the distribution plans for goods and products currently in public use, and those not yet publicly used.

The requested information, and documents and things, is highly confidential to the

Applicant's business, and are properly "trade secret or other confidential research, development, or commercial information," within the meaning of Fed. R. Civ. P 26(c)(7).

Applicant Hoffman, therefore respectfully requests the Board to grant the draft protective order, which is Exhibit A hereto. The draft Order tracks the requirements set out in TBMP § 416.04.

Dated: December 31, 2003.

Respectfully submitted,

/s/ J. Stephen Simms

J. Stephen Simms
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Counsel for Hoffman

CERTIFICATE OF SERVICE

I hereby certify that on December 31, 2003, I caused a true and correct copy of the foregoing to be served by First Class, United States Mail on Lanco counsel:

Kathryn Jennison Schultz
Jennison & Schultz, P.C.
Crystal Plaza #1
Suite 1102
2001 Jefferson Davis Highway
Arlington, Virginia 22202

/s/ J. Stephen Simms

EXHIBIT A

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

Lanco Corporation	)	
Opposer,	)	
	)	Opposition No. 91/154,043
v.	)	
Hoffman Neopac A.G. f/k/a Gebr. Hoffman A.G.	)	Ser. No. 75/545,553 Mark: Miscellaneous Design
Applicant.	)	

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PROTECTIVE ORDER REGARDING
CONFIDENTIALITY OF DISCOVERY MATERIAL

Whereas, the Applicant has requested that certain discovery material be treated as confidential;

Accordingly, it is this ____ day of _____, 2004, by the Trademark Trial and Appeal Board, **ORDERED:**

(1) Definition of the type of material to be considered confidential or trade secret information: Any party may designate as "CONFIDENTIAL" pursuant to this Order, any material which is properly considered trade secret or other confidential research, development, or commercial information, pursuant to Fed. R. Civ.P. 26(c)(7).

(2) Description of the manner in which confidential or trade secret information is to be handled:

(a) Designation of Discovery Materials as Confidential. All documents produced in the course of discovery, all answers to interrogatories, all answers to requests for admission, all responses to requests for production of documents, and all deposition testimony and deposition exhibits shall be subject to this Order concerning confidential information, as set forth below:

(i) The designation of confidential information shall be made by placing or affixing on the document, in a manner which will not interfere with its legibility, the word "CONFIDENTIAL."

(ii) Portions of depositions of a party's present and former officers, directors, employees, agents, experts, and representatives shall be deemed confidential only if they are designated as such when the deposition is taken or within seven business days after receipt of the transcript. Any testimony which describes a document which has been designated as "CONFIDENTIAL", as described above, shall also be deemed to be designated as "CONFIDENTIAL".

(3) Any party claiming confidentiality or trade secret must designate, pursuant to this Order, the information covered by the claim prior to disclosure of the information to the discovering party, with the only exception that, except for documents produced for inspection at the party's facilities, the designation of confidential information shall be made prior to, or contemporaneously with, the production or disclosure of that information. In the event that documents are produced for inspection at the party's facilities, such documents may be produced for inspection before being marked confidential. Once specific documents have been designated for copying, any documents containing confidential information will then be marked confidential after copying but before delivery to the party who inspected and designated the documents. There will be no waiver of confidentiality by the inspection of confidential documents before they are copied and marked confidential pursuant to this procedure. Documents inadvertently produced without designation as "CONFIDENTIAL" may be designated retroactively, and shall be treated as so designated from the date written notice of the designation is provided to the

receiving party.

(4) A party may not designate information as confidential or trade secret unless the party has a reasonable basis for believing that the information is, in fact, confidential or trade secret in nature.

(5) Information designated by the disclosing party as confidential or trade secret may not include information which, at or prior to disclosure thereof to the discovering party, is known to or independently developed by the discovering party; or is public knowledge or becomes available to the public without violation of the agreement.

(6) Information designated by the disclosing party as confidential or trade secret may not include information which, after the disclosure thereof, is revealed to the public by a person having the unrestricted right to do so.

(7) Information designated by the disclosing party as confidential or trade secret may not include information which is acquired by the discovering party from a third party which lawfully possesses the information and/or owes no duty of nondisclosure to the party providing discovery.

(8) Information or documents designated as "Confidential" under this Order shall not be used or disclosed by the parties or counsel for the parties or any persons identified in this paragraph, for any purposes whatsoever other than preparing for and conducting the litigation in which the information or documents were disclosed (including appeals). The parties and counsel for the parties shall not disclose or permit the disclosure of any documents or information designated as confidential under this Order to any other person or entity, except that disclosures may be made in the following circumstances:

(i) Disclosure may be made to counsel and employees of counsel for the parties who have direct functional responsibility for the preparation and trial of the lawsuit. Any such employee to whom counsel for the parties makes a disclosure shall be provided with a copy of, and become subject to, the provisions of this Order requiring that the documents and information be held in confidence.

(ii) Disclosure may be made only to employees of a party required in good faith to provide assistance in the conduct of the litigation in which the information was disclosed.

(iii) Disclosure may be made to court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents. Prior to disclosure to any such court reporter or person engaged in making photocopies of documents, such person must agree to be bound by the terms of this Order.

(iv) Disclosure may be made to consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit. Prior to disclosure to any expert, the expert must be informed of, and agree in writing to be subject to, the provisions of this Order requiring that the documents and information be held in confidence.

(9) All persons to whom confidential or trade secret information is disclosed shall be advised of the existence and terms of this Order.

(10) The discovering party will not disclose or make use of information designated as "CONFIDENTIAL" pursuant to this Order and provided to it under the Order except for purposes of the proceeding in which the information is provided.

(11) **Means for resolving disputes over whether particular matter constitutes**

confidential or trade secret information: A designation of confidentiality may be challenged upon motion to the Board. The burden of proving the confidentiality of designated information remains with the party asserting such confidentiality.

(12) If material designated as confidential or trade secret is made of record in the proceeding, it shall be submitted to the Board in a separate sealed envelope or other sealed container bearing the proceeding number and name, an indication of the general nature of the contents of the container, and, in large letters, the designation "CONFIDENTIAL."

(13) At the end of the proceeding, each party shall return to the disclosing party all materials designated as "CONFIDENTIAL" pursuant to this Order, including all copies, summaries, and abstracts thereof.

(14) Except as provided in above, counsel for the parties shall keep all documents designated as confidential which are received under this Order secure within their exclusive possession and shall take reasonable efforts to place such documents in a secure area.

(15) All copies, duplicates, extracts, summaries, or descriptions (hereinafter referred to collectively as "copies") of documents or information designated as confidential under this Order or any portion thereof, shall be immediately affixed with the word "CONFIDENTIAL" if that word does not already appear.

SO ORDERED.