

Attorney Docket No.: 231555US33

T.T.A.B.



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

YOSHIDA METAL INDUSTRY CO., LTD.,)
)
 Opposer,)
)
 v.)
)
 GLOBAL DECOR, INC.)
)
 Applicant.)
)

Opposition No. 91/156,618
Appln. Serial No.: 76/179,674
Mark: GLOBAL DECOR



09-25-2003

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

OPPOSER'S RESPONSE TO APPLICANT'S MOTION FOR
ENTRY OF PROTECTIVE ORDER

Opposer, Yoshida Metal Industry Co., Ltd. ("Opposer"), responds to Applicant's Motion for Entry of a Protective Order and states that Opposer is in agreement that the Entry of a Protective Order is desirable in this matter. Opposer has no objection to the Protective Order tendered by Applicant, subject to the following changes:

1. The final sentence of paragraph 5 of the Protective Order contains a typographical error and should properly read: "The inadvertent production of any "Confidential" or "Attorney Eyes Only" document, material or other information during discovery in this action **without** a "Confidential" or "Attorney Eyes Only" designation shall be without prejudice to later claiming that such material is Confidential or Attorney Eyes Only, the later claimed information shall be treated as claimed from the time the claim is later made."

2. Paragraphs 10. A. and 11. A. contain typographical errors. Both paragraphs should properly be amended to read: "...in the manner described in paragraph 9 hereof;"

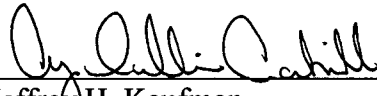
3. Opposer requests that paragraph 11. B. of the Protective Order be revised to include Applicant's foreign counsel, Mr. Kanji Nagato and Ms. Misao Toba of Nagato Patent Office of Japan as persons to whom "Attorney Eyes Only" information may be disclosed in this action.

Opposer tenders an amended Protective Order reflecting the changes above as Exhibit A to this response. Accordingly, Opposer asks that Applicant's Motion for Entry of Protective Order be granted subject to the requested amendments to the Protective Order set forth above.

Respectfully submitted,

YOSHIDA METAL INDUSTRY CO., LTD.

By:



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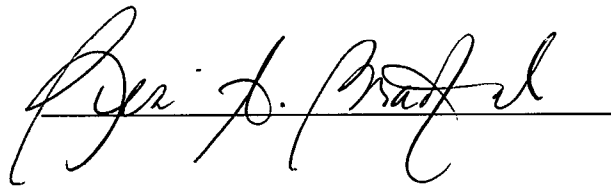
Dated: September 25, 2003

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **OPPOSER'S RESPONSE TO APPLICANT'S MOTION FOR ENTRY OF PROTECTIVE ORDER** was served on counsel for Applicant, this 25th day of September 2003, by sending same via First Class Mail, postage prepaid, to:

James B. Conte, Esq.
BARNES & THORNBURG
One North Wacker Drive
Suite 4400
Chicago, Illinois 60606

A handwritten signature in cursive script, appearing to read "James B. Conte", is written over a horizontal line.

11-11-11

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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YOSHIDA METAL INDUSTRY CO., LTD.)	
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Opposer,)	
)	Opposition No. 91/156,618
v.)	Appln. Serial No.: 76/179,674
)	Mark: GLOBAL DECOR
GLOBAL DECOR, INC.)	
)	
Applicant.)	
)	

PROTECTIVE ORDER

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and Section 416 of the TBMP, the Board enters the following protective order:

1. A protective Order is necessary to conduct discovery in this case.
2. In connection with discovery proceedings in this opposition proceeding, any party may, by written notice, or by a statement on the record at a deposition, designate any document, material, or information as "Confidential" under the terms of this Protective Order that is deemed in good faith by the party to contain confidential or proprietary information within the meaning of Federal Rule 26(c)(7).
3. In connection with discovery proceedings in this opposition proceeding, any party may, by written notice, or by a statement on the record at a deposition, designate any nonpublic document, material, or information as "Attorney Eyes Only" under the terms of this Protective Order, that is deemed in good faith by the party to contain commercially or competitively sensitive information.

4. The restrictions contained in this Protective Order shall apply to documents and information, including all copies, drafts, notes, excerpts and summaries thereof, and to any information derived or obtained from any documents or material designated "Confidential or "Attorney Eyes Only".

5. Any documents, material or information to be designated "Confidential" or "Attorney Eyes Only" may be so designated by: (a) stamping or otherwise marking the documents, material or information with the legend "CONFIDENTIAL" or "ATTORNEY EYES ONLY" prior to their production; (b) identifying in writing all items or things to be inspected which have "Confidential Information" or "Attorney Eyes Only" prior to the inspection of the thing or item; (c) identifying in writing within thirty (30) days after a deposition transcript or testimonial transcript becomes available the portions of the transcript that contain "Confidential Information" or "Attorney Eyes Only". The inadvertent production of any "Confidential" or "Attorney Eyes Only" document, material or other information during discovery in this action without a "Confidential" or "Attorney Eyes Only" designation shall be without prejudice to later claiming that such material is Confidential or Attorney Eyes Only, the later claimed information shall be treated as claimed from the time the claim is later made.

6. In the event counsel for a party receiving documents, material or information designated as "Confidential" or "Attorney Eyes Only" objects to such designation of any or all of such items, said counsel shall advise the party producing the items promptly of such objections and the reasons therefore. The parties will use their best efforts to resolve disputes regarding the propriety of "Confidential" or "Attorney Eyes Only" designations amongst themselves. If the parties are unable to agree with respect to the designation, all the items shall be treated as Confidential or

Attorney Eyes Only pending a resolution of the parties' dispute, and it shall be the obligation of the party objecting to the designation to obtain a resolution before the Trademark Trial and Appeals Board with respect to the propriety of the designation. The burden of proof shall be on the designating party.

7. The attorneys of record in this case to whom Confidential or Attorney Eyes Only information is produced shall use reasonable efforts to ensure such information and documents are treated in accordance with this Protective Order.

8. If any party wishes to use or inquire at any deposition, hearing, or trial concerning documents, material, or information designated as "Confidential" or "Attorney Eyes Only", the portion of the deposition transcript which relates to such documents, material or information shall be designated and treated as "Confidential" or "Attorneys" Eyes Only," respectively, and subjected to the provisions hereof.

9. If documents, material or information (including portions of deposition transcripts) designated as "Confidential" or "Attorney Eyes Only" is made of record in the opposition proceeding, it shall be submitted to the Board in a separate, sealed envelope or container bearing the opposition numbers and caption, a description of the contents and prominently labeled "CONFIDENTIAL".

10. Documents or material (including portions of deposition transcripts) designated as "Confidential" or information derived therefrom, may be disclosed or made available by the party receiving such information only to the following:

- A. the Board in the manner described in paragraph 9 hereof;
- B. counsel of record to the parties to this opposition and the full-time permanent legal, paralegal, clerical and secretarial staff employed by such counsel

whose functions in this proceeding require access to or handling of Confidential information;

C. corporate representatives (officers, directors or employees of the parties who have been charged by their respective corporations with the responsibility for making business decisions dealing directly with the above-captioned action);

D. technical and marketing personnel of the parties who need to be consulted by outside counsel, in the discretion of such counsel, in preparation for disposition of the above-captioned action;

E. court reporters and deponents during a deposition; and

F. outside experts or consultants retained by the parties or their respective counsel in connection with this opposition;

provided that prior to the disclosure of any information pursuant to subparagraphs C, D, or E, counsel for the party proposing to make such disclosure shall deliver a copy of this Protective Order to such person, shall explain its terms to such person, shall secure the signature of such person on a letter in the form attached hereto as Exhibit A, or a comparable letter, wherein such person agrees to be bound by this Protective Order; such person shall not be prohibited from disclosing designated information to his or her staff, provided the staff agrees not to disclose the information in violation of this Protective Order; and disclosing counsel shall keep a log of the persons who execute such letter.

11. Documents or material (including portions of deposition transcripts) designated as "Attorney Eyes Only," or information derived therefrom, may be disclosed or made available by the party receiving such information only to the following:

A. The Board in the manner described in paragraph 9 hereof;

B. counsel of record to the parties to this action, Kanji Nagato and Misao Toba of Nagato Patent Office of Japan, and the full-time permanent legal, paralegal, clerical and secretarial staff employed by such counsel whose functions in this litigation require access to Attorney Eyes Only information;

C. court reporters retained by a party in this action and deponents during the deposition; and

D. outside experts or consultants retained or consulted by outside counsel in connection with this litigation;

provided that any such person is not a past or present employee or director of the receiving party, also provided that prior to the disclosure of any information pursuant to subparagraph D, counsel for the party proposing to make such disclosure shall deliver a copy of this Protective Order to such person, shall explain its terms to such person, shall secure the signature of such person on a letter, wherein such person agrees to be bound by this Protective Order; such person shall not be prohibited from disclosing designated information to his or her staff, provided the staff agrees not to disclose the information in violation of this Protective Order; and disclosing counsel shall keep a log of the persons who execute such letter.

12. Documents, materials or information designated as "Confidential" or "Attorney Eyes Only" shall be used by the persons receiving them only for the purposes of preparing for and conducting this opposition and shall not be used for any other purpose including, without limitation, any business, competitive or commercial purpose, by any person other than the designating party, or for the purpose of any other litigation, whether now pending or not. Reproductions and copies of all documents, materials or information designated as "Confidential" or "Attorney Eyes Only" shall be

made so the designation is clearly visible on the copy or reproduction. The parties agree that relief for any unauthorized disclosure or use of any document, material or information designated "Confidential" or "Attorney Eyes Only" shall include, without limitation, injunctive relief. It shall be the obligation of each counsel, upon learning of any breach or threatened breach of this Protective Order by any person, to promptly notify producing counsel of such breach or threatened breach.

13. Notwithstanding the prior paragraph, nothing herein shall prohibit any party from disclosing any information or fact that it may be required by subpoena or operation of law to disclose. In the event a party receives a subpoena requiring disclosure of confidential information received under this Protective Order, the party shall promptly notify the producing party in order to permit it to attempt to obtain a Court order barring disclosure.

14. The foregoing obligations and restrictions regarding any information designation as "Confidential" or "Attorney Eyes Only" shall not apply and cease to apply when and to the extent that: (a) the designated information is available to the public through no fault of the receiving party; (b) the designated information was previously known or available to the receiving party and the receiving party can document the previous knowledge by written records, which were in existence prior to the disclosure of the confidential information; (c) the designated information is available from a third party through no fault of the receiving party and provided that the third party is not obligated to the disclosing party to keep the designated information confidential.

15. Upon termination of this action, including all appeals, the parties shall, at the discretion of the producing party, destroy or return to counsel for the producing party all documents or material designated as "Confidential" or "Attorney Eyes Only" and all copies thereof (except that counsel for each party may maintain in its files one copy of each pleading filed with the Board and

each deposition transcript together with the exhibits marked at the deposition), or the parties may agree upon appropriate methods of destruction. Counsel shall certify the destruction of the documents in writing to opposing counsel within thirty days of the conclusion or settlement of this opposition.

16. Any information supplied by a third party to either or both of the parties in this action pursuant to subpoena or otherwise may be designated by such third party as "Confidential" or "Attorney Eyes Only" under the terms of this Protective Order and such designation shall have the same force and effect as if made by a party.

17. Neither the parties nor their counsel will attempt to appeal or otherwise attack the validity of this Protective Order with respect to the Order's effect on information produced under the Order. Each party shall be free to seek prospective modification, change or termination of the Order on any grounds.

18. This Protective Order is without prejudice to the right of any party to move this Board for an additional protective order.

19. Nothing in this Protective Order shall require production of information which the parties contend is protected from disclosure by the attorney-client privilege or is otherwise protected from disclosure for any reason.

20. This Protective Order may be signed in counterparts.

YOSHIDA METAL INDUSTRY CO., LTD

GLOBAL DECOR, INC.

Signature

Signature

Name

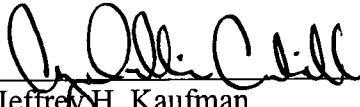
Name

Title

Title

Date

Date

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Date: September 25, 2003

Date: _____

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Attorneys for Applicant
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By: _____

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and

By: _____

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011-81-3-34597521

Date: _____

Japanese Attorneys for Opposer
Yoshida Metal Industry Co., Inc.

IT IS SO ORDERED.

Dated: _____, 2003

Trademark Trial and Appeals Board

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