

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 TRADEMARK TRIAL AND APPEAL BOARD

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4
5 CERTIFIED PRINTERS, INC.,)
6)
7 Opposer,)
8)
9 vs.) Case No. 91167709
10)
11 CROUSER & ASSOCIATES,)
12)
13)
14 Applicant.)
15 _____)

Certified Copy

16 Deposition of NITA ALVAREZ, at 1525 N. Cahuenga
17 Boulevard, Los Angeles, California 90028, commencing
18 at 11:21 A.M., Tuesday, November 13, 2007, before
19 Judith Schlussel, CSR No. 4307.

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24 Reported by: Judith Schlussel
25 CSR No. 4307
NDS Job No.: 127091

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3/13/08

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APPEARANCES OF COUNSEL:

FOR THE OPPOSER:

LAW OFFICE OF JOHN J. HALL

BY: JOHN J. HALL, ESQ.

1631 Beverly Boulevard

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FOR THE APPLICANT:

MCNEES WALLACE & NURICK, LLC

BY: HARVEY FREEDENBERG, ESQ.

(Via Telephone Hookup)

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Harrisburg, Pennsylvania 17101

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Tuesday, November 13, 2007

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NITA ALVAREZ,

the witness, having been administered an oath in
accordance with CCP Section 2094, testified as follows:

THE WITNESS: I do.

MR. FREEDENBERG: Mr. Hall, before you begin,
since this witness was only identified to me a couple of
hours ago, I would appreciate it if you would put an
offer of proof on the record regarding her proposed
testimony.

MR. HALL: Yes. Well, the offer of proof will
be to show the secondary meaning of Certified Printers.

MR. FREEDENBERG: Thank you.

EXAMINATION

BY MR. HALL:

Q. Will you state your name for the record,
please.

A. Nita Alvarez.

Q. And what is your business address?

A. 3174 Cadet Court, Los Angeles 90068.

Q. Are you engaged in any kind of a business?

A. Yes. I am the owner of The Alvarez Group,
Inc., graphic design; in business since 1974.

Q. Was there a time when you began using the

1 services of Certified Printers, Inc., of Hollywood?

2 A. Yes.

3 Q. When did that begin approximately?

4 A. About 15 or 16 years ago.

5 Q. And what was the purpose of your having
6 business association with Certified Printers, Inc.?

7 A. As a graphic designer, I'm often called upon to
8 carry the project through to final printing. I had been
9 looking for a local printer, meaning in the Hollywood
10 area, who was experienced enough and service minded
11 enough to be able to take what I give them and go with
12 it; that I didn't have to sit there and explain every
13 detail to someone like a Kinko's.

14 So Certified was recommended to me and, I
15 believe by another printer, as I've been sitting here
16 trying to remember, who had gone out of business.

17 When I met Michael and spoke with him and had
18 him do a couple of jobs, I realized that he knew what he
19 was doing, he did it well, and he did it for a very
20 reasonable price. I then continued to give him work as
21 well as pass on clients to him directly, because I knew
22 he could take care of what was needed, and he wouldn't
23 take advantage of their ignorance.

24 Q. Did you receive invoices from Certified
25 Printers, Inc.?

1 A. Absolutely.

2 Q. And did you have any correspondence with them
3 also?

4 A. Correspondence?

5 Q. Yeah.

6 A. E-mail, yeah, all the time. I send my jobs via
7 e-mail, FTP sites. And I work with other printers as
8 well.

9 Q. Do you know of any other printer that uses the
10 mark Certified Printers?

11 A. No.

12 Q. Are you familiar with other businesses in the
13 Hollywood area that offer printing services?

14 A. Yes.

15 Q. Have you received also advertising materials
16 from Certified Printers, Inc.?

17 A. Yes.

18 Q. And do you know whether or not those documents
19 show the service mark Certified Printers?

20 A. Yes.

21 Q. When you see or hear the mark Certified
22 Printers, whom do you think it goes to?

23 A. This Certified Printers on Cahuenga Boulevard
24 in Hollywood.

25 Q. So do you consider that the source of the

1 services under Certified Printers?

2 A. Oh, absolutely.

3 MR. HALL: No more questions right now, Harvey.

4

5 EXAMINATION

6 BY MR. FREEDENBERG:

7 Q. Ms. Alvarez, my name is Harvey Freedenberg, and
8 I'm an attorney in Harrisburg, Pennsylvania, and I
9 represent a company called Crouser Associates in this
10 litigation.

11 A. Okay.

12 Q. I do have some questions for you.

13 You said your business, The Alvarez Group,
14 Inc., has been in business since 1974?

15 A. Yeah. Under a different name, but we've been
16 in business since 1974.

17 Q. Have you always operated that business within
18 the Los Angeles, California area?

19 A. In Hollywood specifically.

20 Q. Where do your clients or your customers come
21 from? Are they likewise from the Los Angeles or
22 Hollywood area?

23 A. Several of them. But we do work throughout
24 Southern California as far down, say, as San Diego up to
25 San Francisco and we have several national clients;

1 people back east, some in the Midwest. We specialize in
2 financial and investment materials -- annual reports,
3 presentations. So it's, you know, whoever finds us
4 always uses us.

5 Q. Were you ever asked to submit any documents in
6 support of an application to register the mark Certified
7 Printers with the United States Trademark Office?

8 A. Was I?

9 Q. Yes.

10 A. I don't think so.

11 Q. When were you asked to testify as a witness in
12 this proceeding?

13 A. Last week.

14 Q. Who asked you to do that?

15 A. Certified, Michael.

16 Q. Michael Druyen?

17 A. Uh-huh.

18 Q. Did you discuss your testimony with Mr. Druyen
19 before you appeared today?

20 A. Just generally. He told me the basis of the
21 circumstance and just asked if I would be available to
22 come in and just, and discuss my association with his
23 company.

24 Q. So you had an understanding as to why you were
25 being asked to testify?

1 A. Well, I wouldn't have come if I hadn't.

2 Q. Did you talk to Mr. Hall before the deposition?

3 A. Briefly.

4 Q. Was that today also?

5 A. Yes. Briefly.

6 Q. Were you shown any documents before you were
7 sworn in to testify a few minutes ago?

8 A. No.

9 Q. Now, you said you've known Mr. Druyen for about
10 15 or 16 years; is that correct?

11 A. Yeah.

12 Q. Do you consider him a friend?

13 A. I consider him a friendly colleague. We don't
14 chum about. But I'm always -- you know, I always ask as
15 to their health and that sort of thing.

16 Q. Do you know Mr. Druyen's wife?

17 A. Yes. If you come to Certified, you know that
18 they are, they are the owners.

19 Q. Now, what exactly are the services for which
20 you use Certified Printers?

21 A. Anything to do with printing as well as color
22 copying, color prints, proofing, binding. I've pretty
23 much used all the services that they offer. I made a
24 conscious decision to not purchase all of this equipment
25 for my own office, but rather to turn it over to people

1 who knew what they were doing, who did it efficiently
2 and economically, so I didn't have to be messing with
3 it, frankly.

4 Q. Let me try to summarize that. If I state this
5 incorrectly, please correct me. But would it be
6 accurate to state that you're the design professional,
7 the graphic designer and, when you've done your design
8 work, then you turn it over to Mr. Druyen's company to
9 actually --

10 A. Produce.

11 Q. -- turn that design into a format, a printed
12 format?

13 A. Yes.

14 Q. Something that you're actually going to give to
15 your clients?

16 A. Yes. Either a preliminary proof or a final
17 printed piece.

18 Q. When you get a preliminary proof, then it's
19 submitted to you for approval and --

20 A. Yes.

21 Q. You'll send it back with whatever changes need
22 to be made?

23 A. Yes.

24 Q. And then the final product will be produced by
25 Mr. Druyen or Certified Printers, correct?

1 A. Yes, yes.

2 Q. I want to ask you about various types of
3 services and it's a list of ten items and I'm simply
4 going to go down this list and ask you if you use
5 Certified Printers for any of the following services.

6 A. Okay.

7 Q. The first would be management control and
8 accounting systems services?

9 A. I'm not sure what you mean. Management control
10 and accounting systems? Meaning do I rely on them for
11 my accounting?

12 Q. Yes.

13 A. No.

14 Q. How about organization and operating system
15 services?

16 A. No.

17 Q. Personnel assistance services?

18 A. No.

19 Q. Sales and marketing services?

20 A. No. You mean for them to sell --

21 Q. To assist you with sales and --

22 A. No, no.

23 Q. Buying cooperative services?

24 A. No.

25 Q. Advertising services?

1 A. You mean do they help me with my advertising?

2 Q. Yes.

3 A. No.

4 Q. I'm not sure how big your business is so I
5 don't know whether this would even be potentially
6 relevant. But do they help you with board meetings, if
7 you have a Board of Directors of your business?

8 A. No.

9 Q. How about conference services?

10 A. No.

11 Q. Do they offer any courses that you attend?

12 A. No.

13 Q. Do they pay any visits to your place of
14 business to advise you about how to operate your
15 business?

16 A. No. They have paid visits to my business.

17 Q. What was the purpose of those visits?

18 A. Having to do with picking up a project or going
19 over the proofs or delivering.

20 Q. Excuse me for just one minute. I have to get
21 another document. I'll be right with you.

22 A. Okay.

23 Q. Now your business, The Alvarez Group,
24 Incorporated, its only location is at the address in
25 Hollywood that you gave?

1 A. Yes.

2 Q. Is that correct?

3 A. Yes.

4 Q. Have you ever had any locations outside the
5 Hollywood Los Angeles area?

6 A. No.

7 Q. How many employees do you have in your
8 business?

9 A. Three right now.

10 Q. And how large has your business been at any
11 time? Has it ever been larger than three?

12 A. Yes.

13 Q. What is the largest the business has been?

14 A. There were, I think we had 10 people at our
15 peak.

16 Q. You said that you do have some customers
17 outside the Southern California area. Can you tell me
18 approximately how many you have?

19 A. Probably, I would say around 10 or 12. I've
20 got several in Texas, Idaho, Arizona.

21 Q. When you're producing materials for those
22 customers, do they have any reason to know that you are
23 having those printed at Certified Printers?

24 A. Do they have reason to know?

25 Q. Yes. In other words, when they receive the

1 materials from your business, is there any indication on
2 your materials that Certified Printers has been involved
3 in any way in actually physically producing the
4 materials?

5 A. Well, generally, when I, when I provide a quote
6 to a client, I will provide the name of the printer I'm
7 quoting and --

8 Q. They leave it up to you to decide which printer
9 you want to use. Would that be a fair statement?

10 A. Oh, absolutely.

11 Q. But the materials themselves, whether it's --

12 A. Well, if it's, say, a box of stationery or a
13 box of business cards, it has the Certified Printers
14 sticker on it.

15 Q. Right. But the cards themselves or the
16 stationery would have no indication?

17 A. No.

18 MR. FREEDENBERG: Thank you very much,
19 Ms. Alvarez. I have no further questions for you.

20 THE WITNESS: Thank you.

21 MR. HALL: Just a couple of redirect.

22

23 REDIRECT EXAMINATION

24 BY MR. HALL:

25 Q. When you say that the box of stationery has the

1 Certified Printers sticker on it, the jobs that you do
2 would have their own names on the stationary, for
3 example, that you're preparing for them?

4 A. Right.

5 Q. They wouldn't want anybody else's name on
6 there?

7 A. Of course not. In other words, it would be,
8 you know, Joe's Corporation, but one of the reasons I
9 like to have the Certified sticker on the packaging that
10 the stationery comes in is because I don't want to be
11 involved with the reorders. Therefore, it says
12 Certified. It has a phone number. When they run out of
13 stationery, they know to call Certified and say hi, send
14 me another thousand letterheads.

15 MR. HALL: Thank you. That's all I have.

16 THE REPORTER: Mr. Freedenberg, any questions?

17 MR. FREEDENBERG: No. I have no questions.

18 MR. HALL: Thank you.

19 THE REPORTER: As far as the stipulation, I
20 need that on the record.

21 MR. HALL: The stipulation is that the original
22 will come to my office and the witness will have 30 days
23 after she receives the original to sign it and return it
24 to me, and that we reserve the right for the witness to
25 make any corrections necessary on the deposition

1 transcript. So stipulated?

2 MR. FREEDENBERG: Well, that's fine except that
3 I believe the testimony period is going to expire before
4 that 30-day period. I don't know how that's going to
5 work as a practical matter.

6 MR. HALL: It doesn't make any difference I
7 don't think. We're talking about the Federal Rules and
8 the Federal Rules provide for a 30-day period for the
9 witness to sign, or read the deposition and sign it.

10 MR. FREEDENBERG: I have no objection to the
11 witness reading and signing.

12 MR. HALL: Also, to make any corrections during
13 that period of time that's necessary. That's also
14 within the Federal Rules.

15 MR. FREEDENBERG: Agreed.

16 THE WITNESS: I'm used to meeting deadlines.

17 MR. HALL: So stipulated.

18 THE REPORTER: We're off the record.

19 (TIME NOTED: 11:38 A.M.)
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PENALTY OF PERJURY CERTIFICATE

I hereby declare I am the witness in the within matter, that I have read the foregoing transcript and know the contents thereof; that I declare that the same is true to my knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe them to be true.

I declare being aware of the penalties of perjury, that the foregoing answers are true and correct.

Executed on the ____ day of _____, _____,
at _____, _____.
(CITY) (STATE)

NITA ALVAREZ

1 STATE OF CALIFORNIA)
) ss:
2 COUNTY OF LOS ANGELES)
3

4 I, JUDITH SCHLUSSEL, do hereby certify:

5 That I am a duly qualified Certified Shorthand
6 Reporter, in and for the State of California, holder of
7 certificate number 4307, which is in full force and
8 effect and that I am authorized to administer oaths and
9 affirmations;

10 That the foregoing deposition testimony of the
11 herein named witness was taken before me at the time and
12 place herein set forth;

13 That prior to being examined, the witness named
14 in the foregoing deposition, was duly sworn or affirmed
15 by me, to testify the truth, the whole truth, and
16 nothing but the truth;

17 That the testimony of the witness and all
18 objections made at the time of the examination were
19 recorded stenographically by me, and were thereafter
20 transcribed under my direction and supervision;

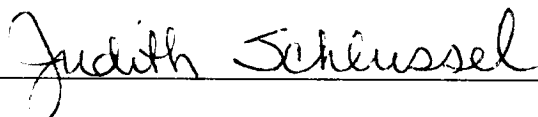
21 That the foregoing pages contain a full, true
22 and accurate record of the proceedings and testimony to
23 the best of my skill and ability;

24 That prior to the completion of the foregoing
25 deposition, review of the transcript was requested.

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I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the outcome of this action.

IN WITNESS WHEREOF, I have subscribed my name this 18th day of November, 2007.



JUDITH SCHLUSSEL, CSR No. 4307

