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

Proceeding	91201052
Party	Defendant Chrysler Group LLC
Correspondence Address	Judith A. Powell KILPATRICK TOWNSEND & STOCKTON LLP 1100 Peachtree Street, NE Suite 2800 ATLANTA, GA 30309 UNITED STATES jpowell@kilpatricktownsend.com,chooker@kilpatricktownsend.com,jash@kilpatricktownsend.com,tmadmin@kilpatricktownsend.com,rgordon@kiltown.com
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Signature	/Judith A. Powell/
Date	01/25/2012
Attachments	Stipulated Protective Order - TTAB No 91201052.pdf (19 pages)(38422 bytes)

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

MODA GROUP, LLC,)	
)	
Opposer,)	Opposition No. 91201052
)	
v.)	
)	
CHRYSLER GROUP LLC,)	
)	
Applicant.)	
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**APPLICANT’S CONSENTED MOTION FOR ENTRY OF STIPULATED PROTECTIVE
ORDER**

Applicant Chrysler Group LLC (“Chrysler”) respectfully moves the Board for entry of the attached Stipulated Protective Order, attached here to as Exhibit 1, governing the use of the parties’ confidential business information in this case. Counsel for Moda Group, LLC consents to the filing of this motion. A copy of this motion is being served on counsel for Moda Group, LLC as reflected in the attached certificate of service.

Respectfully submitted,

/s/Judith A. Powell
Judith A. Powell, Esq.
jpowell@ktslaw.com
KILPATRICK TOWNSEND & STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530
Counsel for Applicant

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

MODA GROUP, LLC,)
)
) Opposition No. 91201052
) Opposer,)
)
)
 v.)
)
)
 CHRYSLER GROUP LLC,)
)
)
) Applicant.)
 _____)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the attached **Motion for Entry of Stipulated Protective Order** was served on Applicant on January 25, 2012 via first-class mail addressed to:

John VanOphem
Dobrusin & Thennisch PC
29 W. Lawrence St., Ste. 210
Pontiac, Michigan 48342

Dated: January 25, 2012

/s/Judith A. Powell

EXHIBIT 1

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

MODA GROUP, LLC,)	
)	
Opposer,)	Opposition No. 91201052
)	
v.)	
)	
CHRYSLER GROUP LLC,)	
)	
Applicant.)	
_____)	

STIPULATED PROTECTIVE ORDER

Pursuant to stipulation of the parties and in accord with the provisions of Rule 26(c) of the Federal Rules of Civil Procedure,

IT IS HEREBY ORDERED THAT:

1. The content of any document or thing produced by any party or third party, any interrogatory answer made by any party, any photograph, note, sketch or other recordation taken of a party's facility, equipment or method of operation, any deposition testimony taken and any exhibit marked by any party in this action, any information learned as a result of an inspection under Fed. R. Civ. P. 34, and any other information, document or thing received from a party or third party in the course of this litigation (hereinafter collectively identified as "Information"), except information of any origin which is publicly available, is subject to this Protective Order.

2. Any party to this action who reasonably believes that any Information is non-public, confidential, protected, or commercially sensitive shall have the right through its counsel to designate such Information "CONFIDENTIAL" or "CONFIDENTIAL – ATTORNEYS'

EYES ONLY” in accordance with Paragraphs 3 or 5 below. Such designated Information shall thereafter be subject to the terms of this Protective Order, and use or disclosure of Information so designated shall be restricted as set forth herein.

3. To designate Information as “CONFIDENTIAL” pursuant to this Protective Order, the party disclosing the Information shall place upon the document, thing, paper, or other tangible embodiments of the information, a legend substantially as follows:

CONFIDENTIAL

Except as otherwise set forth herein, non-tangible Information must be expressly designated as “Confidential” to this Protective Order at the time of its disclosure or such status shall be confirmed in writing by the disclosing party within a reasonable time after the disclosure.

4. Information designated “CONFIDENTIAL” pursuant to paragraph 3 above, and all tangible embodiments thereof, all copies thereof, the substance thereof, and the confidential Information contained therein (“Confidential Material”):

(a) shall not be disclosed or distributed by counsel or any other person receiving, viewing, or hearing the Confidential Material (“receiving person”) to any person other than to:

(1) outside counsel of record for any party to the above-captioned litigation (including all attorneys, paralegal assistants, administrative assistants, and other regular employees);

(2) in-house counsel for any party to the above-captioned litigation, including paralegal and administrative assistants within the party’s legal department;

(3) parties or partners, directors, officers, and regular employees of a party to the extent such disclosure is necessary for the trial or preparation for trial of the captioned action;

(4) independent consultants or expert witnesses (including partners, associates, and employees of the firm which employs such consultant or expert) hired by a party or its counsel for purposes of this litigation;

(5) the authors and original recipients of the documents;

(6) the Board and its employees;

(7) any court reporter or videographer reporting a deposition; and

(8) employees of copy services, microfilming or database services, trial support firms and/or translators who are engaged by the Board or the parties during the litigation of this action and who have a duty to keep such information confidential.

(b) shall not be used by any person for any other lawsuit or for any purpose other than the preparation for and trial of this case;

(c) shall be filed with the Board under seal using the Board's appropriate and/or required procedure, should filing be desired or required, including, if necessary, placing the Confidential Material in a sealed wrapper, and any required motion to place the document containing the Confidential Material under seal.

On the sealed envelope or container including the Confidential Material, the filing party shall affix the caption of this action, and a statement substantially in the following form:

CONFIDENTIAL MATERIAL -- This envelope contains documents which have been filed in this case by _____ (name of party) and are not to be opened nor the contents thereof to be displayed or revealed except by the Board or upon order of the Board;

and

(d) shall not be disclosed to any person within the categories of paragraphs 4(a)(3) and 4(a)(4), unless the provisions of paragraph 7 of this Protective Order are agreed to and followed.

5. Any party to this action who reasonably believes that any Information includes competitively sensitive marketing information, including prospective marketing plans and expenses, trade secrets, financial data(including revenues and internal financial projections, budgets, or valuations), business plans under current consideration or implementation or that a party anticipates implementing, or information respecting strategic transactions under consideration or implementation or that a party anticipates implementing shall have the right through its counsel to designate such Information as “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

To designate Information as for attorneys’ review only pursuant to this Protective Order, the party disclosing the Information shall place upon the document, thing, paper, or other tangible embodiments of the Information, a legend substantially as follows:

CONFIDENTIAL – ATTORNEYS’ EYES ONLY

Except as otherwise set forth herein, non-tangible Information must be expressly designated as for attorneys’ review only subject to this paragraph at the time of its disclosure or such status

shall be confirmed in writing by the disclosing party within a reasonable time after the disclosure.

A party designating Information for attorneys' review only shall do so only upon a good faith belief that disclosure other than subject to these terms may cause the party to suffer significant competitive disadvantage or commercial damage.

6. The Information designated "CONFIDENTIAL – ATTORNEYS' EYES ONLY" as defined in paragraph 5 above, and all tangible embodiments thereof, all copies thereof, the substance thereof, and Confidential Information contained therein ("Attorneys' Eyes Only Material"):

(a) shall not be disclosed or distributed by counsel or any other person receiving, viewing, or hearing the Attorneys' Eyes Only Material ("receiving person") to any person other than to:

(1) outside counsel of record for any party to the above-captioned litigation (including all attorneys, paralegal assistants, administrative assistants, and other regular employees);

(2) independent consultants or expert witnesses (including partners, associates, and employees of the firm which employs such consultant or expert) hired by a party or its counsel for purposes of this litigation;

(3) the authors and original recipients of the documents;

(4) the Board and its employees;

(5) any court reporter or videographer reporting a deposition; and

(6) employees of copy services, microfilming or database services, trial support firms and/or translators who are engaged by the Board or the parties during the litigation of this action.

(b) shall not be used by any person for any other lawsuit or for any purpose other than the preparation for and trial of this case;

(c) shall be filed with the Board under seal using the Board's appropriate and/or required procedure, should filing be desired or required, including, if necessary, placing the Confidential Material-Attorneys Eyes Only in a sealed wrapper, and any required motion to place the document containing Confidential Material-Attorneys Eyes Only under seal. On the sealed envelope or container including the Confidential Material-Attorneys Eyes Only shall be affixed the caption of this action, and a statement substantially in the following form:

CONFIDENTIAL MATERIAL– ATTORNEYS' EYES ONLY --
This envelope contains documents which have been filed in this case by _____ [name of party] and are not to be opened nor the contents thereof to be displayed or revealed except by the Board or upon order of the Board;

and

(d) shall not be disclosed to any person within the category of paragraph 6(a)(2) unless the provisions of paragraph 7 of this Protective Order are agreed to and followed.

7. Prior to disclosing any Confidential Material or Attorneys' Eyes Only Material to any person described in paragraphs 4(a)(3), 4(a)(4), or 6(a)(2), counsel for the respective party(ies) shall explain the contents of this Protective Order to that person. The receiving person

shall agree to be bound by the terms of this Protective Order and for all persons in the categories identified in subparagraphs 4(a)(4) and 6(a)(3) of this order shall execute a declaration identical to Exhibit "A" attached hereto. Counsel for the respective party(ies) shall maintain the originals of all such declarations.

8. Solely for purposes of expediting entry of a Protective Order in the action, Chrysler has temporarily agreed that information designated "Attorneys Eyes Only" will not be disclosed to in-house counsel. Both parties reserve all rights respecting such disclosure if it becomes necessary. Thus, the Parties agree that in the event that it becomes necessary for purposes of settling, arbitrating, mediating, or litigating this action, to disclose to in-house counsel information designated Attorneys' Eyes Only Material, the Party seeking to make such disclosure shall notify the producing Party, at which time the producing Party shall have the burden of proving that the information at issue should not be revealed to in-house counsel. Unless the producing Party files a motion seeking to prevent disclosure to in-house counsel within seven (7) business days after having received such notice, the information may be disclosed to such in-house counsel as are necessary to assist in settling, arbitrating, mediating, or litigating this action; provided, however, the seven (7) day notice period applies only so long as the Information at issue was produced more than twenty-one (21) calendar days before it is necessary for any deposition, hearing, mediation, trial, or other event in this case.

9. An interrogatory answer shall be designated as Confidential Material or Attorneys' Eyes Only material at or prior to the time the answer is served on an opposing party by placing the appropriate notation prominently on each answer containing information deemed to include such Information. Failure to designate documents or tangible things as Confidential or

Attorneys' Eyes Only at the time of production shall not constitute a waiver of such claim if an appropriate designation is made within a reasonable time thereafter.

10. The parties may agree on any method of production of documents. The following procedure is to be followed in any inspections of the parties' original documents and things:

(a) The inspections shall be limited to counsel for the parties, their partners and their employees or sub-contractors covered by the attorney-client privilege;

(b) All documents and things produced for inspection will temporarily be treated as if they had been stamped "Confidential—Attorneys' Eyes Only" pursuant to this Protective Order. For the purposes of documents and things being inspected, it will not be necessary for the producing party to have them stamped confidential at the time of the inspection, and the producing party will not be deemed to have waived any confidential designation by the lack of a confidential legend on the documents and things at the time of inspection; and

(c) During the course of the inspection, the inspecting personnel will tag those documents which are to be copied and later provided. While obtaining photocopies of the tagged documents, the producing party will stamp the appropriate "Confidential" or "Confidential – Attorneys' Eyes Only" legend on those documents that the producing party believes should be so designated. Upon receipt of the photocopied documents, the inspecting personnel will no longer be required to treat as Confidential or Confidential –Attorneys' Eyes Only those documents and things that do not bear such legend. However, the inspecting

personnel will continue to treat as Confidential – Attorneys’ Eyes Only all other documents that were reviewed but were not tagged to be photocopied.

Nothing in this paragraph shall be deemed to require a party to inspect another party’s documents prior to requesting a complete copy set of all documents made available for inspection.

11. (a) During any deposition, hearing or trial, Confidential Material may be disclosed to any deponent or witness (i) who is indicated on the face of the document to be its originator, author or recipient of a copy of said document; or (ii) who has been designated to testify under Fed. R. Civ. P. 30(b)(6) by the producing party; or (iii) other persons entitled hereunder to have access to Confidential Material, including court reporters hired by counsel of either party who are not affiliated with the parties; and to no other persons unless prior authorization is obtained from counsel respecting the producing party or from the Board. During any deposition, hearing or trial, Attorneys’ Eyes Only Material may be disclosed to any deponent or witness (i) who is indicated on the face of the document to be its originator, author or recipient of a copy of said document; or (ii) who has been designated to testify under Fed. R. Civ. P. 30(b)(6) by the producing party; or (iii) other persons entitled hereunder to access to Attorneys’ Eyes Only Material; and to no other persons unless prior authorization is obtained from Counsel representing the producing party or from the Board.

(b) Parties may, on the record during a deposition, hearing or trial or in writing within thirty (30) days after receipt of a deposition, hearing or trial transcript, designate to all parties any pages or lines thereof containing Confidential Material or Attorneys’ Eyes Only Material. Unless testimony is designated as Attorneys’ Eyes Only Material at or before the time

of the deposition, all deposition testimony provided by a party or a party's expert witness shall be treated as Confidential Material for a period of 30 days after the taking of the deposition. Thereafter, the deposition will only be covered by this Protective Order if specifically designated as either Confidential Material or Attorneys' Eyes Only Material.

12. The termination of proceedings in this action shall not relieve any person to whom Confidential Information was disclosed from the obligation of maintaining the confidentiality of such Information in accordance with the provisions of this Protective Order.

13. Upon final termination of this action, each party shall assemble and, as agreed, shall either destroy or return within sixty (60) days all items designated as Confidential Material or Attorneys' Eyes Only Material. Written verification of destruction shall be given immediately after such destruction, and receipt of material returned to the supplier shall be acknowledged in writing.

14. Any document or testimony transcript designated as Confidential Material or Attorneys' Eyes Only Material pursuant to this Protective Order will be treated pursuant hereto, unless confidentiality is waived in writing by the party asserting it or a Board order is obtained in accordance with Paragraph 16. To aid the Board in considering requests pursuant to Paragraph 16, the parties agree that Information shall not include information that:

- (a) was, is, or becomes public knowledge (i.e., publicly known), not in violation of this Protective Order;
- (b) was previously known to the receiving party or was developed independently by the receiving party.

15. Furnishing of copies of documents to the opposing party shall not constitute a waiver of the attorney/client privilege or work product immunity with respect to any document or physical object so furnished, if within a reasonable period of time after the opposing counsel's receipt of such documents, the producing party designates any such document as within either the attorney/client privilege or work product immunity and requests return of any such documents to the producing party. Upon request by the producing party for return of any such documents designated as within either the attorney/client privilege or work product immunity, the receiving party immediately shall return to the producing party all copies of such documents and shall destroy all notes or summaries made regarding such documents. Nothing herein shall prevent the receiving party from challenging the propriety of the attorney/client privilege or work product immunity designation by filing an appropriate motion with the Board.

16. Nothing in this Protective Order shall foreclose or limit any party from asserting that any Information designated confidential pursuant to this Protective Order is, in fact, not protectable under the Federal Rules of Civil Procedure and/or paragraph 14 above. The failure to designate information in accordance with this Protective Order and the failure to object to a designation at a given time shall not preclude the filing of a motion at a later date seeking to impose such designation or challenging the propriety thereof.

17. The parties may, by written stipulation only, waive all or any part of their rights under this Protective Order. Entry of this Protective Order shall be without prejudice to any motion for relief from the provisions hereof or to any motion seeking an order of this Board modifying this Protective Order, including seeking further restriction on the production, exchange, or use of any disclosed Information or seeking to modify or vacate the restrictions on

disclosure imposed by this Protective Order as applied to any item or items designated pursuant hereto; provided, however, that no such motion shall be made after the entry of a final judgment or settlement. In the event of a challenge to an assertion of confidentiality, the party asserting confidentiality shall have the burden of proving that the information is, in fact, confidential.

18. To the extent that any discovery is taken of any person who is not a party to this action (“Third Party”), and in the event such Third Party or any party contends that the discovery sought involves confidential Information, then such Third Party shall be asked to agree to execute and to join in and be bound by this Protective Order and then such Third Party’s confidential information shall be protected by this Protective Order.

19. Following the termination of this proceeding before the Board, the parties shall submit any issues that arise respecting this Protective Order or documents subject to it to the United States District Court, Eastern District of Michigan, for determination.

Dated: _____, 2012

SO ORDERED:

The Trademark Trial and Appeal Board

Dated: January 25, 2012

Stipulated and consented to by:

/s/ Judith A. Powell

Judith A. Powell, Esq.
jpowell@ktslaw.com
KILPATRICK TOWNSEND &
STOCKTON LLP
Suite 2800
1100 Peachtree Street
Atlanta, Georgia 30309-4530

Counsel for Applicant

/s/ John VanOphem

John VanOphem, Esq.
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DOBRUSIN & THENNISCH PC
29 W. Lawrence St.
Ste. 210
Pontiac, Michigan 48342
Phone: (248) 292-2920

Counsel for Opposer

EXHIBIT A

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

MODA GROUP, LLC,)	
)	
Opposer,)	Opposition No. 91201052
)	
v.)	
)	
CHRYSLER GROUP LLC,)	
)	
Applicant.)	
_____)	

DECLARATION OF _____
RE: STIPULATED PROTECTIVE ORDER
WITH RESPECT TO CONFIDENTIAL INFORMATION AND DOCUMENTS

I, _____, declare that:

1. My address is _____

2. My present employer is _____

and the address of my present employment is _____

3. I have read and know the contents of the Stipulated Protective Order dated _____, 2011.

4. I am one of the persons described in the Protective Order, and I am executing this Declaration and agreeing to be bound by its terms in order to satisfy the conditions provided in the Protective Order prior to the disclosure to me of any confidential information under the Protective Order.

5. I have read and I shall be fully bound by the terms of the aforesaid Protective Order.

6. All such documents and information which are disclosed to me pursuant to the Protective Order shall be maintained by me in strict confidence and I shall not disclose or use the original or any copy of, or the subject of, such documents and/or information except in accordance with the aforesaid Protective Order.

7. I shall not use or refer to any of the aforesaid documents and/or information, or copies thereof, other than in connection with the above-entitled action and as provided in the Protective Order.

8. I shall, upon being notified of the termination of the above-entitled action, return all copies of such documents to counsel from whom I receive such documents, and I shall destroy any notes and/or memoranda I have regarding the aforesaid documents and/or information.

9. I do and shall subject myself to the jurisdiction of the United States District Court, Eastern District of Michigan, over my person, wherever I shall be, for the enforcement of the aforesaid Protective Order.

10. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____