VENABLE® LLP

575 7th Street, NW
Washington, DC 20004-1601

Telephone 202-344-4000
Facsimile 202-344-8300

www.venable.com

jepierce@venable.com

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PATENT & TRADEMARK OFFICE

May 16, 2005

VIA HAND DELIVERY

Commissioner for Trademarks
P. O. Box 1451
Alexandria, Virginia 22313-1451

Attention: Trademark Trial & Appeal Board

Re: A.V. Imports, Inc. v. Spirits International, N.V.
Cancellation No. 92043340

Dear Board:

Enclosed herewith is a signed copy of the Stipulated Protective Order for the parties, and their counsel, in the above captioned matter. The parties respectfully request that the Board enter the attached Order.

Sincerely,

Justin E. Pierce

cc: Lisa Pearson, Esq.

05-16-2005
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #39

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

A.V. IMPORTS, INC.,	)	
Petitioner,	)	
v.	)	Cancellation No. 92043350
	)	(Registration No. 1,487,042)
SPIRITS INTERNATIONAL, N.V.,	)	
Respondent and Registrant.	)	

STIPULATED PROTECTIVE ORDER CONCERNING CONFIDENTIAL MATERIALS

Pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and Section 412 of the Trademark Trial and Appeal Board Manual of Procedure, Petitioner A.V. Imports Inc. and Respondent Spirits International, N.V. hereby stipulate and consent to the following Stipulated Protective Order in an effort to protect commercially sensitive information. This Order shall bind the parties as of the last day signed by the parties below.

Definitions:

1. The term "Confidential Information" includes confidential commercial information (including, by way of example, customer data, current sales and marketing plans, product shipment and distribution information) that is designated as confidential by the producing party, whether it be a document, information contained in a document, information revealed during a deposition, information revealed in an interrogatory answer or otherwise.

2. The term "Highly Confidential Information" includes, and shall be limited to, information that the designating party has a reasonable basis for believing constitutes, discloses or relates to information regarding (i) market or business plans or strategies for existing or new products, including but not limited to competitive analyses, marketing strategies, and proprietary marketing tools; (ii) research and development, (iii) sales, costs, profitability or other sensitive

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financial information related to any product, (iv) confidential customer information, or (v) confidential agreements with importers, distributors, distillers and customers.

3. The term "this Cancellation Proceeding" shall mean the above-captioned action, namely: A. V. Imports, Inc. v. Spirits International, N.V., Cancellation No. 92043350 in the United States Patent and Trademark Office, Trademark Trial and Appeal Board (the "TTAB").

4. Confidential Information produced pursuant to this Stipulated Protective Order may be disclosed or made available only to Qualified Persons. The term "Qualified Persons" shall mean:

(a) Counsel of record in this Cancellation Proceeding, including their staff and support personnel, who are working directly on this Cancellation Proceeding under the direction of such attorneys and to whom it is necessary that the materials be disclosed for purposes of this Cancellation Proceeding;

(b) Stenographer(s) employed in this action;

(c) The TTAB or any other entity authorized by the TTAB or required by law;

(d) In-house counsel of each party to this Cancellation Proceeding;

(e) Up to two (2) officers, directors and/or employees of each producing party;

(f) Experts or consultants together with their clerical staff who are working directly on this Cancellation Proceeding under the direction of such experts or consultants and to whom it is necessary that the materials be disclosed for purposes of this Cancellation Proceeding;

(g) Any other person as to whom parties in this Cancellation Proceeding agree in writing is a Qualified Person. In the event the parties cannot agree on designating a person as a Qualified Person, the parties shall first try to dispose of such dispute in good

faith on an informal basis. If the dispute cannot be resolved, the party seeking to designate a person as a Qualified Person may petition the TTAB to order that such person is a Qualified Person;

(h) Any other person the TTAB either orders or permits to be a Qualified Person subject to the terms of this Stipulated Protective Order;

(i) Any third party that produces confidential or highly confidential documents to another party in this litigation, provided that third party may only have access to the documents that the third party itself produced;

(j) Any person described in Paragraphs 4(e), 4(f), 4(g), 4(h) and 4(i) (each "proposed Qualified Person"), shall be deemed a Qualified Person only after the following steps have been completed: (i) the non-disclosing party shall provide a copy of this Stipulated Protective Order to the proposed Qualified Person; (ii) such proposed Qualified Person shall execute the nondisclosure agreement in the form of Attachment A hereto; and (iii) the non-disclosing party shall serve a copy of the executed nondisclosure agreement to the disclosing party.

5. Information designated as Highly Confidential Information may be disclosed only to persons described in Paragraphs 4(a), 4(b), 4 (c) and 4(d). A.V. Imports, Inc., however, does not have in-house counsel, and, therefore designates Ron Wollman, the CEO of A. V. Imports, Inc., to receive Highly Confidential Information provided that Ron Wollman complies with the steps listed in Paragraph 4(j) to become a Qualified Person.

Terms:

6. Confidential Information and Highly Confidential Information shall only be disclosed by a non-producing party to Qualified Persons.

7. All Confidential Information and Highly Confidential Information produced by any producing party in the course of this Cancellation Proceeding shall be used solely for the purpose of the prosecution, defense, or settlement of this Cancellation Proceeding, and any other action or proceeding arising from or related to the same or similar set of facts in which the following persons are parties: (a) on the one side, Petitioner A.V. Imports, Inc.; and (b) on the other side, Spirits International, N.V. In the event an attorney of record withdraws or is removed as an attorney of record in this case, such attorney of record shall remain subject to this Stipulated Protective Order.

8. Third parties shall produce confidential and highly confidential documents to any other party in this Cancellation Proceeding pursuant to the terms of this Stipulated Protective Order provided that the third party complies with Paragraphs 4(i) and 4(j).

9. "Confidential Information" shall include all documents and things produced by a party that have been designated as such by bearing the designation "CONFIDENTIAL". "Highly Confidential Information" shall include all documents and things produced by a party that have been designated as such by bearing the designation "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY". Production of documents and things for the purposes of inspection and copying shall not constitute a waiver of confidentiality. If documents and things are produced for purposes of inspection, such inspection shall be undertaken by Qualified Persons only, and documents and things that are selected for copying and deemed confidential shall be marked with the words "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" as appropriate. "Confidential Information"

or "Highly Confidential Information" shall not include: (a) information from a third party that is not under an obligation of confidentiality to the producing party; or (b) information that is in the public domain.

10. Information disclosed at a deposition may be designated by a producing party as Confidential Information or Highly Confidential Information by so indicating on the record at the deposition and indicating that such information is subject to the provisions of this Stipulated Protective Order. A producing party may also designate information disclosed at such deposition as Confidential Information or Highly Confidential Information by notifying the other non-producing party in writing, within thirty (30) days of receipt of the transcript, of the specific pages and lines of the transcript that contain such information. Any portions of a deposition transcript designated as Confidential Information or Highly Confidential Information shall be maintained separately from the remainder of the transcript and shall be disclosed only pursuant to this Order and, if filed, shall be filed under seal.

11. Nothing contained herein shall prevent disclosure beyond the terms of this Stipulated Protective Order if the producing party (who designated the information as Confidential Information or Highly Confidential Information) agrees in writing to such disclosure and such agreement is filed with the TTAB.

12. The inadvertent or unintentional disclosure by the producing party of Confidential Information or Highly Confidential Information, regardless of whether such information was so designated at the time of disclosure, shall not be deemed a waiver in whole or in part of a designating or producing party's claim of confidentiality, either as to the specific information disclosed or as to any other information relating thereto on the same or related subject matter. To the extent possible, counsel for all parties shall cooperate to restore the confidentiality of any

Confidential Information or Highly Confidential Information upon the discovery of unintentional disclosure or inadvertent error.

13. A non-producing party shall not be obligated to challenge the propriety of a designation of Confidential Information or Highly Confidential Information at the time the designation is made, and failure to do so shall not preclude a subsequent challenge thereto. In the event that any party to this Cancellation Proceeding disagrees at any point in these proceedings with the designation of any information, the disputing parties shall first try to resolve such dispute in good faith on an informal basis. If the dispute cannot be resolved: the party asserting confidentiality shall have the burden of proving the same; however, in the event the basis for challenging confidentiality is that the information is not "Confidential Information" or "Highly Confidential Information" as described in the last sentence of Paragraph 9 above, the challenging party shall have the burden of proving the same.

14. This Stipulated Protective Order is intended solely to facilitate the preparation and trial of this Cancellation Proceeding and shall not be construed in any way as an admission or agreement by any producing party that the designated disclosure actually constitutes or contains any privileged, confidential or proprietary information under applicable law.

15. The TTAB is directed to maintain under seal all documents and transcripts of deposition testimony submitted to the TTAB in this Cancellation Proceeding that have been designated, in whole or in part, as Confidential Information or Highly Confidential Information. All such information shall be filed under seal with the TTAB, in a sealed envelope, and prominently marked "CONFIDENTIAL – TO BE OPENED AS DIRECTED BY THE TTAB."

16. In the event that any party wishes to use any Confidential Information or Highly Confidential Information in any affidavit, brief, memorandum of law or other paper filed with the

TTAB in this Cancellation Proceeding, it shall be filed under seal and maintained under seal by the TTAB.

17. This Stipulated Protective Order is not intended to address any objections to produce, answer or respond on the grounds of attorney-client privilege or work-product or to preclude any party from seeking further relief or protective orders from this TTAB as may be appropriate under the Federal Rules of Civil Procedure or the Trademark Trial and Appeal Board Manual of Procedures.

18. Notwithstanding any provision of this Stipulated Protective Order, any witness whose deposition or trial testimony is taken in this Cancellation Proceeding may be shown and questioned concerning any document of which he or she is the author or a recipient or that describes activities in which he or she participated. Nothing in this Order shall preclude TTAB officials, jurors or any certified reporter from viewing Confidential Information during judicial proceedings or depositions in this Cancellation Proceeding.

19. All parties, including those deemed Qualified Persons under paragraph 4(j) of this Stipulated Protective Order, shall return any and all documents marked as "CONFIDENTIAL" or HIGHLY CONFIDENTIAL" to the respective producing party upon completion of this TTAB proceeding.

20. This Stipulated Protective Order shall continue to be binding after the conclusion of this Cancellation Proceeding except that (a) there shall be no restriction on documents that are used as exhibits in open TTAB proceedings and (b) a party, in this Cancellation Proceeding, may seek the written permission of the other party or further order of the TTAB, after notice to the other party, with respect to dissolution or modification of any provision of such Order. The

TTAB shall retain jurisdiction over all parties to the extent necessary to enforce the foregoing obligations.

21. The parties to this Cancellation Proceeding and the signatories of Attachment A agree to be subject to the jurisdiction of courts of competent jurisdiction within the states of Maryland or New York to enforce the terms of this Stipulated Protective Order. The parties recognize that a breach of this Order would cause irreparable harm to the non-breaching party, and that monetary damages alone may not be adequate to remedy a breach of this Order. As such, the parties agree that injunctive relief is appropriate for any such breach.

Date: 4/19, 2005

By: _____
A.V. IMPORTS, INC.
Petitioner

Date: 4/19, 2005

By: _____
Andrew C. Aitken
Jennifer D. Jesinoski
VENABLE LLP
575 7th Street, N.W.
Washington, D.C. 20004
(202) 344-4000
(202) 344-8300 (facsimile)
Attorneys for Petitioner

Date: 4.22.04, 2005

By: _____
SPIRITS INTERNATIONAL, N.V.
Respondent

Date: _____, 2005

By: _____
Lisa Pearson
FROSS ZELNICK LEHRMAN & ZISSU, P.C.
866 United Nations Plaza
New York, New York 10017
(212) 813-5900
(212) 813-5901 (facsimile)
Attorneys for Respondent

THE ORDER IS IMPOSED:

Date: _____, 2005

By: _____
Assistant Commissioner for Trademarks
Trademark Trial and Appeal Board

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

A. V. Imports, Inc.,	)	
Petitioner,	)	
v.	)	Cancellation No.: 92043350
	)	(Registration No. 1,487,042)
Spirits International, N.V.,	)	
Respondent and Registrant.	)	

ATTACHMENT A TO THE STIPULATED
PROTECTIVE ORDER CONCERNING CONFIDENTIAL MATERIALS

This is to certify that I have read and understand the Protective Order Concerning Confidential Materials entered in A. V. Imports, Inc. v. Spirits International, N.V., Cancellation No. 92043350 in the United States Patent and Trademark Office, Trademark Trial and Appeal Board, and agree: (a) to be bound by the terms and conditions listed therein; (b) not to reveal information covered by the order to anyone other than any other person designated to receive such information; and (c) to utilize such information solely for the purposes described in Stipulated Protective Order Concerning Confidential Materials. In addition, I hereby consent to the jurisdiction of any court of competent jurisdiction in the state of Maryland or New York for purposes of enforcing the Stipulated Protective Order Concerning Confidential Materials.

Date: 22. 06. 2005

Name: Stanislaw Brasiler

Company: Spirits International N.V.

Signature: S. Brasiler

Address: WTC - Curacao
Tak II - 03A
Willemstad, Curacao
N. A.