

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOM Enterprises, LLC,
Petitioner,

v.

ELAINE AND REINHOLD W. VIETH,
Patent Owners,

Case IPR 2023-00726
Patent 9,066,958

**JOINT MOTION FOR ENTRY OF
[REVISED PROPOSED STIPULATED] PROTECTIVE ORDER**

Petitioner MOM Enterprises, LLC and Patent Owners, Elaine and Reinhold W. Vieth (the “Parties”) hereby renew their Joint Motion for Entry of a Stipulated Protective Order. The Parties jointly moved for entry of a stipulated protective order. (“Joint Motion”) Paper 47. The BOARD denied the Joint Motion on January 11, 2024, Paper No. 54, as inconsistent with the Trial Practice Guide 9-10, 37-38.

The Parties hereby renew the Joint Motion for Entry of a Stipulated Protective Order and submit herewith a [Revised Proposed Stipulated] Protective Order that expressly includes provisions consistent with the Trial Practice Guide 9-10, 37-38.

In connection with the above-captioned case, Patent Owners and Petitioner contemplate the disclosure, production, and/or filing of certain confidential and highly confidential materials and information. Petitioner and Patent Owners have agreed to the [Revised Proposed Stipulated] Protective Order submitted herewith as Exhibit 2019. The [Revised Proposed Stipulated] Protective Order is based on the Board’s default protective order but includes certain modifications as shown by the redline version submitted herewith as Exhibit 2020. The [Revised Proposed Stipulated] Protective Order (1) adds a “Confidential – Attorneys’ Eyes Only” designation for extremely sensitive confidential information, the disclosure of which to another Party or Non-Party would create a substantial risk of serious

harm that could not be avoided by less restrictive means; and (2) clarifies the persons permitted to receive designated information and procedures for disclosure to such persons; (3) contains provisions designed to lower the burden of production by permitting the use of designation previously made under a protective order entered in concurrent litigation; and (4) revisions to paragraph 10 to be consistent with Trial Practice Guide 9-10, 37-38. The Parties thank the Board for identifying an unanticipated potential inconsistency with the procedures outlined in the Trial Practice Guide. That potential inconsistency has been addressed in the [Revised Proposed Stipulated] Protective Order.

The Board's Consolidated Trial Practice Guide ("CTPG") states that "[t]he parties are encouraged to agree on the entry of a stipulated protective order." CTPG (Nov. 2019) at p. 107. Further, the CTPG notes that the Board "will generally accept such proposed changes if they are consistent with the integrity and efficient administration of the proceedings," and will accept additional categories of confidentiality if "they are reasonable and adequately define what types of material are to be included in the additional categories." *Id.* at 115-116. Here, the Parties have agreed on the entry of the attached revised proposed stipulated protective order that is believed to be "consistent with the integrity and efficient administration of proceedings" and adequately defines the "types of materials to be included" in the "Confidential – Attorneys' Eyes Only" designation.

During a teleconference hearing held on October 27, 2023, the Board authorized the parties to file a motion for entry of a proposed protective order at such time as a party seeks to file a document under seal. Ex. 2015, page 38, lines 4-12.

Dated: February 8, 2024.

Respectfully submitted,

By: /Mark E Ungerman/
Mark E. Ungerman (Reg. No. 32,070)
UNGERMAN IP PLLC
2305 Calvert St., N.W.
Washington, DC 20008
Tel: (202) 461-3200
Fax: (202) 350-2547
Email: mungeman@ungermanip.com

Alan M Anderson (*pro hac vice*)
Matthew Palen (*pro hac vice*)
L. Reagan Florence (*pro hac vice*)
ALAN ANDERSON LAW FIRM LLC
Crescent Ridge Corporate Center
11100 Wayzata Blvd., Suite 545
Minneapolis, MN 55305
TEL: 612-756-7010
FAX: 612-756-7050
Email: aanderson@anderson-lawfirm.com
rflorence@anderson-lawfirm.com
mattpalen@comcast.net

Dated: February 8, 2024.

By: _____
David Conrad, Reg. No. 60,788
Lance Wyatt, Reg. No. 68,837
Sarika Patel (*pro hac vice*)
Fish & Richardson P.C.
60 South Sixth Street
Minneapolis, MN 55402
T: (202) 783-5070
F: (877) 769-7945
Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that the foregoing
JOINT MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER
is being served on February 8, 2024, by filing this document through the Patent
Trial and Appeal Case Tracking System (P-TACTS) and by electronic mail as
directed by Petitioner upon the following counsel of record for Petitioners:

David B. Conrad
Lance E. Wyatt
Sarika Patel
Casey Kraning
Fish and Richardson P.C.
To: IPR53953-0001IP1@fr.com

/Mark E Ungerman/
Mark E. Ungerman
(Reg. No. 32,070)