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 IPR2023-00726
Patent 9,066,958

[REVISED PROPOSED STIPULATED] PROTECTIVE ORDER

VIETH EXHIBIT 2020

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked "Confidential" or "Confidential – Attorneys' Eyes Only." The designation "Confidential – Attorneys' Eyes Only" shall be limited to 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.

2. Access to documents marked "Confidential" is limited to the following individuals who have executed the acknowledgment appended as Exhibit A to this order:

(A) Parties. Persons actively involved in assisting with the prosecution or defense of this proceeding who are owners or licensors of a patent involved in the proceeding and other persons who are named parties to the proceeding, in this proceeding: MOM ENTERPRISES, LLC; DDROPS COMPANY; REINHOLD VIETH; and ELAINE VIETH.

(B) Party Representatives. Outside counsel of record for a party in the proceeding.

(C) In-house Counsel. In-house counsel of a party.

(D) Other Outside Counsel. Other outside counsel of a party who either:

(1) has responsibility for making decisions dealing directly with the

underlying litigation, but not any competitive decision-making or advising responsibility to or for a party; or (2) are employed by outside counsel of record in this proceeding and assisting outside counsel of record in this proceeding but who have not noticed an appearance in this proceeding. All such persons must sign the Acknowledgement attached as Exhibit A and certify that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding and do not have any competitive decision-making or advising responsibility to or for a party.

(E) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(F) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

(G) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(H) Persons shown on the face of the document to have authored or received it.

3. Access to documents marked "Confidential – Attorneys' Eyes Only" is limited to the individuals identified in Paragraphs 2.B and D-H above. Other Outside Counsel and Experts, as defined in Sections 2(D) and 2(E), must execute the Acknowledgment appended to this order.

4. A party will mark confidential information as "Confidential – Attorneys' Eyes Only" only upon a good faith belief that the information is so commercially sensitive that its dissemination deserves even further limitation than information designated as "Confidential." Confidential information marked as "Confidential – Attorneys' Eyes Only" may include, but is not limited to, confidential technical, testing, sales, strategy, or financial information.

5. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than in-house counsel and in-house counsel's support staff, shall be extended access to confidential information marked as "Confidential" only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information. Documents designated "Confidential" or "Confidential – Attorneys' Eyes Only" may be disclosed to individuals shown on the face of such documents as an author or recipient without signing the Acknowledgment.

6. Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

(A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;

(B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;

(C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and

(D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

7. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) Documents and Information Filed With the Board.

(i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. Where the documents or information are designated "Confidential – Attorneys' Eyes Only," the Motion to Seal should further set forth the reasons for the elevated restrictions of access. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The documents or

information shall remain under seal unless the Board determines that some or all of it does not qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties.

Documents (including deposition transcripts) and other information

designated as confidential that are disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as "Confidential" or "Confidential – Attorneys' Eyes Only" and shall be produced in a manner that maintains its confidentiality.

8. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

9. Documents produced in *Ddrops Co. et al v MOM Enterprises, LLC* bearing document control numbers and confidentiality designations and produced in this proceeding need not be re-numbered or re-designated for this proceeding.

10. Any party may request a change in the designation of any information designated "Confidential" or "Confidential – Attorneys' Eyes Only." Any such document shall be treated as designated until the change is completed. If after five (5) business days prior written notice to the designating party, the requested change in designation is not agreed to, the party seeking the change may, after complying with Board Practice to meet and confer, and if attempts to resolve the dispute fail, a party may request a conference call with the Board to discuss the dispute and the appropriate means of resolving it as set forth in Trial Practice Guide 9–10, 37–38 and providing notice to

any third party whose designation of produced documents as “Confidential” or “Confidential – Attorneys’ Eyes Only” in the proceeding. The party asserting that the material is Confidential or “Confidential – Attorneys’ Eyes Only” shall have the burden of proving that the information in question is within the scope of protection afforded by this proceeding.

Exhibit A to Protective Order

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Standard Acknowledgment for Access to Protective Order Material

I _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District

Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

[*Signature*]

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that the foregoing [REVISED PROPOSED 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)