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

Proceeding	91169452
Party	Plaintiff DEI Headquarters, Inc. DEI Headquarters, Inc. ,
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Attachments	Protective Order- Request for PO to facilitate settlement discussions.pdf ( 17 pages )(463874 bytes )

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

DEI HEADQUARTERS, INC. )

Opposer, )

v. )

VIPERA GMBH )

Applicant. )

Opposition No.: 91169452

Serial No.: 78-535,202

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**STIPULATION, AGREEMENT AND PROTECTIVE ORDER  
CONCERNING CONFIDENTIAL INFORMATION**

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Opposer, DEI Headquarters, Inc., by and through its attorneys, and Applicant, Vipera GmbH, by and through its attorneys, jointly submit for the Trademark Trial and Appeal Board's ("Board") approval the following Stipulation, Agreement and Protective Order ("Order") concerning confidential information which includes sensitive, confidential or proprietary information.

Opposer and Applicant, by and through their respective attorneys, stipulate as follows:

**1. SCOPE**

(a) This Order shall limit the use and/or disclosure of documents, deposition testimony, and related information which are, or which embody or disclose any information, designated hereunder as "CONFIDENTIAL" or as "HIGHLY CONFIDENTIAL" and shall apply to:

(i) All such documents so designated in accordance with this Order and all information contained therein;

(ii) Portions of deposition testimony and transcripts and exhibits thereto which include, refer, or relate to any confidential information;

(iii) All information, copies, extracts, and complete or partial summaries prepared or derived from confidential information; and

(iv) Portions of briefs, memoranda, or any writing filed with or otherwise supplied to the Board, which include or refer to any such confidential information.

(b) Any person (*i.e.*, any individual or entity) designating documents, testimony, or other information as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" hereunder asserts that he, she, or it believes in good faith that such material is his, her, or its confidential information which is not otherwise available to the public generally, or is information which the person believes is or may be encompassed by a pre-existing confidentiality agreement with any other person.

(c) "Confidential information" is defined to include, but not be limited to, documents, material, or testimony that is private or constitutes and/or relates to (a) trade secrets; (b) business strategies, decisions, and/or negotiations; (c) financial, budgeting, and/or accounting information; (d) customer information, including prospective customers; and (e) marketing studies, proformas, projections, and similar information relating to the value and/or potential value of stock, science and technology, and/or other assets or liabilities. Confidential information includes all documents or other information that has been designated "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to this Order.

(d) Confidential information ordinarily should be designated as "CONFIDENTIAL" rather than "HIGHLY CONFIDENTIAL." A "HIGHLY CONFIDENTIAL" designation is appropriate only where the confidential information is so sensitive in the context of this case that there is a real danger that the party producing the information could be prejudiced if the information is disclosed under the protection provided by a "CONFIDENTIAL" designation. Examples of information warranting a "HIGHLY CONFIDENTIAL" designation are documents which contain, disclose, or reflect trade secrets, sensitive customer information, patent applications, or similarly competitively sensitive information.

(e) Nothing in this Order and no party's designation of any document or information as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" shall be construed to constrain, preclude, or otherwise affect in any manner the independent research and development, marketing, product development, or other technical activities of the parties.

(f) Nothing in this Order and no party's designation of any document as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" shall be construed to constrain, preclude, or otherwise affect the use (including the ability to include the document or information in papers not filed under seal) of another party's documents which are duplicates of such designated documents provided that such duplicate documents were lawfully obtained by such party through means independent of the discovery process.

(g) A party's failure to designate a document as its confidential information where the document was produced by another party and designated by the producing party as that party's confidential information shall not be construed to waive the non-designating party's claim, with respect to present and future litigation between these or other parties, that the document contains the non-designating party's confidential information.

2. **DESIGNATION OF DOCUMENTS AND DEPOSITIONS AS “CONFIDENTIAL” OR “HIGHLY CONFIDENTIAL”**

(a) Designation of a document as “CONFIDENTIAL” by the producing party shall be made by conspicuously stamping or writing “CONFIDENTIAL” on each page thereof.

(b) Designation of a document as “HIGHLY CONFIDENTIAL” by the producing party shall be made by conspicuously stamping or writing “HIGHLY CONFIDENTIAL” on each page thereof.

(c) Designation of a deposition or other pretrial testimony, or portions thereof, as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” shall be made by a statement on the record by counsel for the party or other person making the claim of confidentiality at the time of such testimony. The portions of depositions so designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL” shall be taken only in the presence of persons qualified to receive such information pursuant to the terms of this Order, the court reporter, the deponent, and the deponent’s attorney. Failure of any person to comply with a request to leave the deposition room will constitute sufficient justification for the witness to refuse to answer any question calling for disclosure of confidential information so long as persons not entitled by this Order to have access to such information are in attendance. Thereafter, any counsel may reopen the deposition into areas which the witness refused to answer after bringing a motion for protective order to resolve whether the person who refused to leave the deposition should be allowed to be present during questioning. After resolution of said motion, counsel shall be allowed to continue said deposition with respect to the questions, and lines of questioning, which the deponent refused to answer, though the Board may order that the deposition continue outside the presence of the person who refused to leave the initial deposition. The applicable portions of such deposition

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