

1 William A. Markham, State Bar No. 132970
 Dorn Graham Bishop, State Bar No. 147994
 2 Jason Eliaser, State Bar No. 248394
 LAW OFFICES OF WILLIAM MARKHAM, P.C.
 3 550 West C Street, Suite 2040
 San Diego, CA 92101

4 Tel: (619) 221-4400
 5 Fax: (619) 224-3974
 E-mail: wm@maldonadomarkham.com

6 Attorneys for Defendant Dan-Dee Company, Inc.
 7

8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **SAN FRANCISCO DIVISION**

12 INNOVATION VENTURES, LLC et al.)
 13 Plaintiffs.)

14 Vs.)

16 PITTSBURGH WHOLESALE)
 17 GROCERS d/b/a PITCO FOODS et al.,)
 18 Defendants)

Case No. 12-cv-5523-WHA

STIPULATION AND ~~PROPOSED~~ ORDER
 (RE: USE OF DEPOSITION TESTIMONY
 GIVEN IN A RELATED CASE)

Date: July 11, 2013
 Time: 8:00 a.m.
 Place: Courtroom 8, 19th Floor
 Judge: The Hon. William H. Alsup

Complaint Filed: October 26, 2012
 Trial Date: January 13, 2014

20 _____)
 21 RELATED ACTIONS)
 22 _____)

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 STIPULATION TO USE DEPOSITION TRANSCRIPTS

1 **I. RECITALS**

2 WHEREAS, Plaintiffs seek relief for alleged product counterfeiting and to this end have filed
3 two civil actions in two different federal courts that both arise from the same essential allegations of
4 product counterfeiting; and

5 WHEREAS, Plaintiffs filed the first of these actions in the Eastern District of New York. The
6 name of this case is *Innovation Ventures et al. v. Ultimate One Distributing Corp. et al.*, 12 Civ.
7 5354 KAM (E.D.N.Y. 2012) (the "New York Action"); and

8 WHEREAS, Plaintiffs filed the second of these actions, which is the present case, in the
9 Northern District of California. The name of the California case is *Innovation Ventures et al. v.*
10 *Pittsburgh Wholesale Grocers, Inc.*, 12-cv-5523-WHA (N.D. Cal. 2012) (the "California Action");

11 and

12 WHEREAS, on the basis of these allegations, which Plaintiffs have repeated in both the New
13 York and California Actions, Plaintiffs have sued some entities and individuals in the California
14 Action and others in the New York Action; and

15 WHEREAS, in the California Action Plaintiffs have taken the deposition of Kevin Attiq, who
16 is a defendant, cross-defendant, and third-party plaintiff in the California Action as well as a
17 third-party defendant in the New York Action; and

18 WHEREAS, in the New York Action, Plaintiffs have taken the depositions of Walid Jamil,
19 Raid Jamil, Justin Shayota, Adriana Shayota, Joe Shayota, Mario Ramirez, and Jorge Navarro, all of
20 whom are defendants in the New York Action and third-party defendants in the California Action;

21 and

22 WHEREAS, the parties to this stipulation include each of the above deponents; and

23 WHEREAS, the purpose of this stipulated agreement is to promote judicial economy by
24 limiting duplicative discovery in both the California Action and the New York Action, including by
25 convening one rather than two depositions of the above parties and by affording every party in both
26 actions a full opportunity to examine each of the above parties; and

27 WHEREAS, the aims of judicial economy will be promoted by this agreement;

28 WHEREFORE, the below parties now agree and stipulate to the following limited

STIPULATION TO USE DEPOSITION TRANSCRIPTS

1 coordination of discovery proceedings in the California Action and the New York Action:

2 **II. STIPULATED AGREEMENT**

3 1. Plaintiffs have noticed and taken the depositions of the following parties in the New
4 York Action: Walid Jamil; Raid Jamil; Justin Shayota; Adriana Shayota; Joe Shayota; Mario Ramirez;
5 and Jorge Navarro. Most of these depositions have been adjourned, not concluded, and the parties
6 agree by this stipulation that all of these depositions will be deemed adjourned rather than concluded.
7 The listed party-deponents will cooperate reasonably to schedule the resumption of their depositions
8 and afford every party in both the California Action and the New York Action a fair and full
9 opportunity to examine them at these depositions in accordance with the Federal Rules of Civil
10 Procedure. The transcripts of these depositions can be used or proffered for use as deposition
11 testimony of parties to the New York Action. The transcripts of these depositions can also be used or
12 proffered for use as deposition testimony of parties to the California Action as if the depositions
13 themselves had been noticed and conducted pursuant to the California Action.

14 2. Plaintiffs have noticed and taken the deposition of the following party in the California
15 Action: Kevin Attiq. This deposition has been adjourned, not concluded, and Kevin Attiq will
16 cooperate reasonably in scheduling the resumption of his deposition and afford every party in both the
17 California Action and the New York Action a fair and full opportunity to conduct an examination of
18 him in accordance with the Federal Rules of Civil Procedure. The transcript of this deposition can be
19 used or proffered for use as deposition testimony of a party to the California Action. The transcript of
20 this deposition can also be used or proffered for use as deposition testimony of a party to the New
21 York Action as if the deposition itself had been noticed and conducted pursuant to the New York
22 Action.

23 3. Subject to approval by the Court, other depositions can be made subject to this
24 agreement if the relevant parties so stipulate.

25 4. The seven depositions taken in the New York Action and one deposition taken in the
26 California Action shall count against the parties' allowed number of depositions in the California
27 Action as follows: Four depositions shall count against the Plaintiffs and four depositions shall count
28 against Dan-Dee Company, Inc.

STIPULATION TO USE DEPOSITION TRANSCRIPTS

1 5. This agreement will become effective only if it is approved by the Court and adopted
2 by it as a binding Order of the Court.

3 **IT IS SO STIPULATED.**

4 DATED: May 24, 2013

/s/ Geoffrey Potter, Esq.

5 _____
6 Geoffrey Potter, Esq.
7 PATTERSON BELKNAP WEBB & TYLER LLP,
8 Attorneys for Innovation Ventures, LLC; Living
9 Essentials, LLC; and International IP Holdings, LLC

10 DATED: May 24, 2013

/s/ Jennifer Lee Taylor, Esq.

11 _____
12 Jennifer Lee Taylor, Esq.
13 MORRISON & FOERSTER LLP
14 Attorneys for Defendants Pittsburgh Wholesale
15 Grocers, Inc. and Pacific Groservice, Inc.

16 DATED: May 24, 2013

/s/Randolph Gaw, Esq.

17 _____
18 Randolph Gaw, Esq.
19 THE GAW GROUP
20 Attorneys for Defendants Elite Wholesale, Inc.;
21 Tonic Wholesale, Inc. Dapan USA Corp.; and Sung
22 Keun Lee.

23 DATED: May 24, 2013

/s/Dean Alper, Esq.

24 _____
25 Dean Alper, Esq.
26 ALPER & MCCULLOCH,
27 Attorneys for Defendant United Custom Distributors,
28 LLC

29 DATED: May 24, 2013

/s/Richard M. Apkarian Jr. Esq.

30 _____
31 Richard M. Apkarian Jr. Esq.
32 PAESANO AKKASHIAN, P.C.
33 Walid Jamil; Raid Jamil; Justin Shayota; Midwest
34 Wholesale Distributors, Inc.; Trimexico, Inc.; and JT
35 Wholesale, Inc.

36 DATED: May 24, 2013

/s/Gregory A. Vega, Esq.

37 _____
38 Gregory A. Vega, Esq.
39 SELTZER CAPLAN MCMAHON VITEK
40 Adriana Shayota; Joe Shayota; Tradeway
41 International, Inc.; and NaftaUnited.com

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DATED: May 24, 2013

/s/Daniel J. Dimuro, Esq.

Daniel J. Dimuro, Esq.
GORDON & REES LLP
Mario Ramirez; Camilo Ramirez; MCR Innovations and
Packaging, Inc.; and MCR Printing & Packaging Corp.

DATED: May 24, 2013

/s/Steven Elia, Esq.

Steven Elia, Esq.
THE LAW OFFICES OF STEVEN ELIA, APC
Attorneys for Defendants Kevin Attiq and Fadi Attiq

DATED: May 24, 2013

/s/William Markham, Esq.

William Markham, Esq.
LAW OFFICES OF WILLIAM MARKHAM, P.C.
Attorney for Defendant Dan-Dee Company, Inc.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: June 10, 2013



William H. Alsup
United States District Judge