

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

**DWS INTERNATIONAL, INC.
d/b/a Marble Dimensions Worldwide, Inc.,**

Plaintiff,

-vs-

Case No. 3:09-cv-458

**MEIXIA ARTS AND HANDICRAFTS CO.,
LTD, et al.,**

Judge Thomas M. Rose

Defendants.

ENTRY

The Court has received, via e-mail, a proposed Agreed Protective Order for approval and entry by the Court. However, the Court declines to approve the proposed Agreed Protective Order as submitted for two reasons.

First, the proposed Agreed Protective Order purports to be approved by Defendant Meixia Arts and Handicrafts Co. Yet, this Court does not yet have personal jurisdiction over this Defendant.

Second, paragraph 7 of the proposed Agreed Protective Order provides that the restrictions placed by the Parties on the use of confidential information “shall continue during any trial or hearing in this case.” Further, “[t]he use of “CONFIDENTIAL” documents or information as evidence at trial or hearing in this case shall be subject to such protection as the Court shall determine at the time.” However, while the Parties may reach their own agreements regarding confidentiality, pursuant to *Procter & Gamble Co. v. Bankers Trust Co.*, 78 F.3d 219

(6th Cir. 1996), only the Court may determine which documents are filed or otherwise used in a Court proceeding under seal.

Any party wishing to file, or otherwise use, a document under seal pursuant to Fed.R.Civ.P. 26(c) must first obtain an order from the Court requiring that such document be sealed from public disclosure. Further, the motion for leave to file under seal must provide the legal basis for filing the specific document under seal.

The proposed Agreed Protective Order will not be approved. However, the Parties are welcome to submit a proposed agreed protective order that includes only parties over which this Court has personal jurisdiction and which complies with the holding in *Procter & Gamble* for the Court's approval and entry.

DONE and **ORDERED** in Dayton, Ohio, this Fourth day of December, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record