

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AKER BIOMARINE AS
Petitioner

v.

NEPTUNE TECHNOLOGIES AND BIORESSOURCES INC.
Patent Owner

CASE IPR2014-00003
U.S. Patent No. 8,278,351

PROTECTIVE ORDER

NEPN Ex. 2033
Aker vs. Neptune
IPR2014-00003

This standing Protective Order governs the treatment and filing of confidential information in this proceeding, including documents and testimony.

1. Confidential information shall be clearly marked "PROTECTIVE ORDER MATERIAL" or "CONFIDENTIAL BUSINESS INFORMATION."

2. Access to confidential information is limited to the following individuals :

(A) *Party Representatives.* Outside counsel of record for a party in this proceeding, including attorneys admitted *pro hac vice* for this proceeding.

(B) *Experts.* Retained experts of a party in the proceeding who have executed the Acknowledgment appended to this Protective Order as Exhibit A.

(C) *The Office.* Employees and representatives of the Office who have a need for access to the confidential information. 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.

(D) *Support Personnel.* Administrative assistants, clerical staff, paralegals, court reporters, videographers, translators, and other support personnel of the foregoing persons who are reasonably necessary to assist counsel of record in this proceeding and who shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

3. Persons receiving confidential information ("receiving party") 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 receiving party uses to maintain the confidentiality of its own confidential information; and

(C) Using reasonable efforts to ensure that support personnel of the receiving party 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.

4. 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 under seal, together with a non-confidential description of the nature of the confidential information that is under seal and the reasons why the information is confidential and should not be made available to the public. The submission shall be treated as confidential and remain under seal, unless, upon motion of a party and after a hearing on the issue, or *sua sponte*,

the Board determines that the documents or information do not to 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. 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, upon motion of a party and after a hearing on the issue, or *sua sponte*, 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.* Information designated as confidential that is disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as "PROTECTIVE ORDER MATERIAL" or "CONFIDENTIAL BUSINESS INFORMATION" and shall be produced in a manner that maintains its confidentiality.

5. If the receiving party disagrees with the producing party's designation of information produced in this proceeding as confidential, the parties shall confer and attempt to reach an agreement regarding the confidentiality or use of such information. If no

agreement is reached within 7 business days after the receiving party notifies the producing party of its disagreement with the designation, either party may raise the issue of the designation to the Board which may rule on the matter.

6. Persons qualified to receive confidential information pursuant to this Protective Order may also access certain materials produced by a party to this proceeding and designated as "CONFIDENTIAL BUSINESS INFORMATION" in United States International Trade Commission Investigation No. 337-TA-877, *Certain Omega-3 Extracts from Marine or Aquatic Biomass and Products Containing the Same* ("the 877 Investigation"), provided that such access shall be limited to specific documents that the parties agree in writing, or the Board authorizes, may be provided to persons qualified under this Protective Order.

7. When information designated as "PROTECTIVE ORDER MATERIAL" or "CONFIDENTIAL BUSINESS INFORMATION" is discussed, quoted, or referred to in any deposition, oral argument, or hearing, only persons qualified to access such information pursuant to this Protective Order may be present, and any transcript of the proceeding or portion thereof may be marked as "PROTECTIVE ORDER MATERIAL" or "CONFIDENTIAL BUSINESS INFORMATION." A party designating a transcript as "PROTECTIVE ORDER MATERIAL" or "CONFIDENTIAL BUSINESS INFORMATION" under this Protective Order shall do so, and shall identify the specific pages and line numbers that contain such

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