

Filed on behalf of Nidec Motor Corporation

IPR2014-01121

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZHONGSHAN BROAD OCEAN MOTOR CO., LTD.; BROAD OCEAN
MOTOR, LLC; AND BROAD OCEAN TECHNOLOGIES, LLC
Petitioners

v.

NIDEC MOTOR CORPORATION
Patent Owner

Case No. IPR2014-01121
U.S. Patent No. 7,626,349

Before BENJAMIN D.M. WOOD, *Administrative Patent Judge*
JAMES A. TARTAL, *Administrative Patent Judge*
PATRICK M. BOUCHER, *Administrative Patent Judge*

PATENT OWNER'S MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner Nidec Motor Corporation (“Nidec”) hereby moves to seal Patent Owner’s Motion to Exclude Evidence (Paper No. 45). As detailed below, this paper contains information the Petitioner deems highly confidential and extremely sensitive operations information.

Counsel for Petitioners and Nidec have agreed on the terms of a modified protective order relating to the use of confidential information and Exhibits in this proceeding. Specifically, the Default Protective Order has been amended to accommodate a second “Attorneys’ Eyes Only” provision to protect highly confidential material contained in the relevant filing. Patent Owner has filed the Stipulated Protective Order along with a redline showing how the Stipulated Protective Order differs from the Board’s Default Protective Order (*See* Exhibits 2001 and 2002, respectively). A redacted version of Paper No. 45 is being submitted contemporaneously herewith.

I. Good Cause Exits for Sealing Confidential Information In This Proceeding.

The Board must find “good cause” exists to enter a protective order and must “strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 (April 5, 2013). *See also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14,

2012). The Board identifies “confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” 77 Fed. Reg. at 78760 (citing 37 C.F.R. § 42.54).

Beyond the confidential designation available in the Default Protective Order, the “Attorneys’ Eyes Only” provision mirrors the provision of the protective order entered in related district court litigation and is necessary to protect highly confidential design, development, testing, and financial information, the disclosure of which would cause significant competitive harm. Petitioner relies on this detailed operations information in its business.

This type of highly confidential information has been—and will continue to be—designated as Attorneys’ Eyes Only in the co-pending litigation and this type of operations-related information would typically never be provided to the public in any context. *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

Accordingly, Nidec respectfully requests that the Board protect against the public disclosure of the following information:

Materials to be Sealed as “Confidential” or “Attorneys’ Eyes Only”		
Paper / Exhibit	Contents	Good Cause
45	Patent Owner’s Motion to Exclude Evidence (pg.2, sentence beginning “Mr. Hu describes the exhibits as...”	<u>Contains Confidential Operations Information</u> —This portion contains non-public information illustrating the business relationship of Petitioner.
45	Patent Owner’s Motion to Exclude Evidence (pg.3, sentence beginning “He states only that Exhibits 1034...”	<u>Contains Confidential Operations Information</u> —This portion contains non-public information illustrating the business relationship of Petitioner.

II. Certification of Non-Publication

On behalf of Nidec, undersigned counsel certifies that the confidential

information identified in the foregoing paper and sought to be sealed has not, to their knowledge, been published or otherwise made public.

III. Certification of Conference with Opposing Party

Pursuant to 37 C.F.R. § 42.54, the undersigned counsel has conferred in good faith with counsel for Petitioners. The parties have agreed to the scope and terms of the Stipulated Protective Order.

IV. Proposed Protective Order

The Protective Order filed previously as Exhibit 2001 is the Stipulated Protective Order to which the parties have agreed to be bound in this matter. Moreover, Exhibit 2002 is a redline showing how the Stipulated Protective Order differs from the Board's Default Protective Order.

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