

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DUKE MANUFACTURING CO.,
Petitioner

v.

MARMON FOODSERVICE TECHNOLOGIES, INC.
Patent Owner.

Case IPR2026-00406
Patent 10,852,002

PATENT OWNER'S MOTION TO SEAL

Pursuant to 37 C.F.R. § 42.14 and according to the terms of the Proposed Protective Order (Exhibit 1040) currently pending before the Board, Patent Owner Marmon Foodservice Technologies, Inc. (“Marmon”) respectfully requests that the Board seal the unredacted versions of Patent Owner’s Brief in Support of Discretionary Denial and Exhibit 2005 (Declaration of Michael Mattingly in Support of Patent Owner’s Request for Discretionary Denial). Patent Owner has concurrently submitted public versions of the Brief and Exhibit 2005 that redact only highly confidential financial and commercial information.

I. Good Cause Exists for Sealing Certain Confidential Information

For good cause, the Board may “issue an order to protect a party or person from disclosing confidential information.” 37 C.F.R. § 42.54. The rules “identify 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.” Trial Practice Guide (Nov. 2019) at 14. The unredacted versions of the Brief and Exhibit 2005 meet this standard, and for the reasons explained below, there is good cause for why they should remain under seal.

The unredacted versions of the Brief and Exhibit 2005 contain highly sensitive, non-public financial and commercial data regarding Marmon’s Extended Holding Bin (EHB) product line. Specifically, the documents disclose unit sales

volumes, aggregate domestic revenue figures, and specific capital expenditures allocated for research, development, engineering, and marketing.

The information requested to be sealed fits squarely within the kinds of information that the Trial Practice Guide considers to be “confidential information,” such as “commercial information.” TPG at 19. There is good cause for keeping the unredacted versions of the Brief and Exhibit 2005 under seal, as the public disclosure of Marmon’s exact revenues, unit sales, and R&D budgets would allow competitors to reverse-engineer Marmon’s profit margins, market share, and investment strategies, putting Marmon at a severe competitive disadvantage in the marketplace. Despite the highly confidential nature of the information that Marmon requests to seal, Marmon has submitted public versions of the Brief and Exhibit 2005 with narrowly tailored redactions to satisfy the need for public disclosure. These redacted versions are sufficient for the public and Petitioner to review and analyze Marmon’s discretionary denial arguments.

Because Petitioner Duke Manufacturing Co. is a direct business competitor of Marmon, it is appropriate for the Board to seal the unredacted versions of the Brief and Exhibit 2005 in accordance with the “PROTECTIVE ORDER MATERIAL - OUTSIDE ATTORNEYS’ EYES ONLY” designation as set forth in the Proposed Protective Order. Pursuant to the TPG, Petitioner will have access to the redacted versions of the Brief and Exhibit 2005, which are public. TPG at 15–16. Upon

executing the agreement to be bound to the Proposed Protective Order, Petitioner's outside counsel can view the unredacted versions of the Brief and Exhibit 2005.

II. Certification of Non-Publication

On behalf of Patent Owner, the undersigned counsel certifies that the information sought to be sealed by this Motion to Seal has not been published or otherwise made public.

III. Proposed Protective Order

Patent Owner proposes that the confidential information referenced herein be subject to the Proposed Protective Order already submitted in this proceeding as Exhibit 1040. The Proposed Protective Order follows the Board's default protective order but adds an additional level of confidentiality for Outside Attorneys' Eyes Only, which is necessary given the highly sensitive business nature of the financial information submitted and the fact that the parties are direct business competitors.

IV. Conclusion

For the reasons stated above, Patent Owner respectfully requests the Board grant the present Motion to Seal the unredacted versions of Patent Owner's Brief in Support of Discretionary Denial and Exhibit 2005.

Date: September 8, 2026

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