
BEFORE THE PATENT TRIAL AND APPEAL BOARD

DUKE MANUFACTURING CO.
Petitioner

v.

MARMON FOODSERVICE TECHNOLOGIES, INC.
Patent Owner

Case: IPR2026-00406
Patent No. 10,852,002

PETITIONER'S MOTION TO FILE UNDER 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, Petitioner Duke Manufacturing Co. (“Duke”) respectfully requests that the Board seal Exhibits 1049, 1051, and 1053-1057 and the unredacted versions of Petitioner’s Brief in Opposition of Discretionary Denial and Exhibit 1058 (Declaration of Greg Hake). Petitioner has concurrently submitted a public version of Petitioner’s Brief in Opposition of Discretionary Denial and Exhibit 1058 redacting only highly confidential 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 (the “TPG”) (updated December 12, 2025) (*available at <https://www.uspto.gov/patents/ptab/trial-practice-guide#step3>*).

A. Exhibits 1051 and 1057 and the unredacted versions of Petitioner’s Brief in Opposition of Discretionary Denial and Exhibit 1058 (Declaration of Greg Hake)

There is good cause for why Exhibits 1051 and 1057 should remain under seal. Petitioner’s Exhibits 1051 and 1057 are spread sheets generated using Duke’s

ERP system that identifies the sales in quantity sold and revenue generated for certain Duke products.

Petitioner's Brief in Opposition of Discretionary Denial and Exhibit 1058 (Declaration of Greg Hake) likewise include the sales figures disclosed in Exhibits 1051 and 1057. Petitioner has submitted public versions of the Brief and Exhibit 1058 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 Duke's discretionary denial arguments.

The information requested to be sealed fits within the kinds of information that the Trial Practice guide considers to be "confidential information," such as "commercial information." TPG. There is good cause for keeping Exhibits 1051 and 1057 and the unredacted versions of Petitioner's Brief and Exhibit 1058 under seal, as the disclosure of Duke's quantities sold and revenues could put Duke at a competitive disadvantage in the marketplace.

Patent Owner Marmon Foodservice Technologies, Inc. is a business competitor of Duke's, so it is appropriate for the Board to seal Exhibits 1051 and 1057 and the unredacted versions of Petitioner's Brief and Exhibit 1058 in accordance with the "PROTECTIVE ORDER MATERIAL – OUTSIDE ATTORNEYS' EYES ONLY" designation as set forth in the Proposed Protective Order. Pursuant to the TPG, Patent Owner will have access to the redacted version

of Petitioner’s Brief and Exhibit 1058, which is public. And Patent Owner’s counsel—which has executed an agreement to be bound to the Proposed Protective Order—can view Exhibits 1051 and 1057 and the unredacted versions of Petitioner’s Brief and Exhibit 1058.

B. Exhibits 1049 and 1053-1056

There is good cause for why Exhibits 1049 and 1053-1056 should remain under seal. Petitioner’s Exhibits 1049 and 1053-1056 are email communications, meeting/training agendas, and reports exchanging confidential information received from Duke’s customer—Burger King. Exhibits 1049 and 1055-1056 included technical specifications that Burger King—a third party—was requesting of Duke’s food holding products and product development details. Exhibits 1053 and 1054 likewise included confidential identification regarding Burger King’s equipment priorities.

The information requested to be sealed fits within the kinds of information that the Trial Practice guide considers to be “confidential information,” such as “confidential research, development, or commercial information.” TPG. There is good cause for keeping Exhibits 1049 and 1053-1056 under seal, as the disclosure of the confidential information could put Duke and/or Burger King at a competitive disadvantage in the marketplace. Despite the highly confidential nature of the

information, the relevant content of the exhibits is sufficiently described in the Petition to satisfy the need for public disclosure of information.

As Patent Owner is a business competitor of Duke's, it is appropriate for the Board to seal Exhibits 1049 and 1055-1056 in accordance with the "PROTECTIVE ORDER MATERIAL – OUTSIDE ATTORNEYS' EYES ONLY" designation as set forth in the Proposed Protective Order. Patent Owner's counsel—which has executed an agreement to be bound to the Proposed Protective Order—can view Exhibits 1049 and 1055-1056.

As Patent Owner was included in the email communication and training agenda of Exhibits 1053 and 1054, it is appropriate for the Board to seal Exhibits 1049 and 1055-1056 in accordance with the "PROTECTIVE ORDER MATERIAL" designation as set forth in the Proposed Protective Order.

II. Certification of Non-Publication

On behalf of Petitioner, 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

Petitioner proposes that the confidential information referenced herein be subject to the Proposed Protective Order attached hereto 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 given the business nature of the confidential information submitted and that Petitioner Duke and Patent Owner (Marmon Foodservice Technologies, Inc.) are direct business competitors. *See* TPG at 69 (default protective order may be modified "to provide additional tiers or categories of confidential information, such as 'Attorneys' Eyes Only"). A version of the Proposed Protective Order of Exhibit 1040 showing redline changes as compared to the Board default protective order is provided as Exhibit 1041.

IV. Conclusion

For the reasons stated above, Petitioner respectfully requests the Board grant the present Motion to Seal and enter the Proposed Protective Order.

Dated: October 6, 2026

Respectfully submitted,
/William R. Everding/
William R. Everding, Reg. No. 67,087
Lead Counsel for Petitioner

CERTIFICATE OF SERVICE

Under 37 C.F.R. § 42.6(e), the undersigned certifies that on October 6, 2026, a copy of the PETITIONER'S MOTION TO SEAL was served via email on the following:

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Respectfully submitted,

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