BEFORE THE PATENT TRIAL AND APPEAL BOARD

DUKE MANUFACTURING CO.
Petitioner

v.

MARMON FOODSERVICE TECHNOLOGIES, INC.
Patent Owner

Case: IPR2026-00481
Patent No. 9,980,322

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) as proposed herein, Petitioner Duke Manufacturing Co. ("Duke") respectfully requests that the Board seal the unredacted version of Exhibit 1039. Petitioner has concurrently submitted a public version of Exhibit 1039 that redacts 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") (*available at* https://www.uspto.gov/sites/default/files/documents/trial_practice_guide_nov2019_oct2025_web.pdf) at 14. The unredacted version of Exhibit 1039 meets this standard and for the reasons explained there is good cause for why it should remain under seal.

Petitioner's Exhibit 1039 is a spread sheet generated using Duke's ERP system that identifies the sales of certain products related to the non-patent literature asserted as prior art for the purposes of demonstrating that the non-patent literature was publicly accessible. Specifically, Exhibit 1039 includes identifying information

for each unit of IRHS products which were sold—including identifying the purchaser of each unit. The inclusion of this purchaser information, if not redacted, would allow competitors to not only identify Duke's customers, but to also piece together the exact quantities and models of products that those customers purchased.

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 at 19. There is good cause for keeping the unredacted version of Exhibit 1039 under seal, as the disclosure of the identification of Duke's customers and the specific products and quantities that they purchased could put Duke at a competitive disadvantage in the marketplace. Despite the highly confidential nature of the information that Duke request to seal, Duke has submitted a public version of the spread sheet with redactions to satisfy the need for public disclosure of information. This redacted version is sufficient for the public, the Board, and Patent Owner to review, analyze and make a determination to whether the non-patent literature was publicly accessible.

Patent Owner Marmon Foodservice Technologies, Inc. is a business competitor of Duke's, so it is appropriate for the Board to seal the unredacted version of Exhibit 1039 in accordance with the "PROTECTIVE ORDER MATERIAL – OUTSIDE ATTORNEYS' EYES ONLY" designation as set forth in the Proposed Protective Order. Pursuant to the TPG at 15-16, Patent Owner will have access to

the redacted version of Exhibit 1039, which is public. Upon agreement to the terms of the Proposed Protective Order, agreement to the terms of a protective order that the parties file jointly, or entry of a protective order; Patent Owner's outside counsel can view the unredacted version of Exhibit 1039.[1]

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

[1] Patent Owner's outside counsel in IPR2026-00406 has already been provided an unredacted version of Exhibit 1039.

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: September 30, 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 September 30, 2026, a copy of the PETITIONER'S MOTION TO FILE UNDER SEAL and EXHIBITS 1040 and 1041 were served via FedEx pursuant to 37 C.F.R. § 42.105 on the following attorneys of record for Patent Owner:

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By: */William R. Everding/*
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