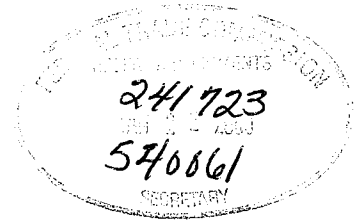


ORIGINAL



UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of)

Polypore International, Inc.)
a corporation.)

) Docket No. 9327

) PUBLIC
)

MOTION TO EXTEND TIME TO PRODUCE DOCUMENTS

EnerSys hereby moves to extend the deadline by which it must produce documents pursuant to the Subpoena served upon it by Respondent Polypore International, Inc. (“Respondent” or “Polypore”) and the Order dated January 15, 2009. In support thereof, EnerSys states the following:

1. EnerSys is a nonparty.
2. Respondent has directed a subpoena duces tecum (“Subpoena”) to EnerSys.
3. On December 16, 2008, EnerSys moved for an award of attorneys’ fees and to limit the Subpoena.
4. On January 14, 2009, Respondent and EnerSys jointly moved for leave of Court to conduct depositions of EnerSys employees after the discovery deadline of February 13, 2009.
5. By Order dated January 15, 2009 (“January 15th Order”), the Court denied EnerSys’ Motion for an award of attorneys’ fees and ordered EnerSys to produce responsive documents within ten (10) calendar days.
6. By Order dated January 16, 2009 (“January 16th Order”), the Court granted the Joint Motion of Respondent and EnerSys and allowed Respondent to depose EnerSys employees after the discovery deadline.
7. EnerSys intends to use its best efforts to comply with both the Subpoena and the January 15th Order.

8. EnerSys is in the process of reviewing the documents and preparing them for production.

9. As set forth in EnerSys' motion for an award of attorneys' fees, however, EnerSys has gathered approximately 15,500 documents, or 100,000 pages, of potentially responsive documents.

10. Although EnerSys has devoted substantial resources to this document review, EnerSys respectfully submits that it cannot review these documents and process them for production within ten (10) calendar days.

11. With regard to processing, the documents must be converted to Summation "load tiff" files, Bates labeled, and labeled for confidentiality designations pursuant to Paragraph 8 of the October 23, 2008 Protective Order.

12. During the pendency of its motion, EnerSys could not begin reviewing the documents because one of the types of relief it sought was that Polypore would first review the documents and cull them down to a more manageable review.

13. EnerSys respectfully requests that the Court modify the Order to allow EnerSys twenty (20) calendar days to produce the documents, with documents to be produced on a rolling basis (*i.e.*, producing documents in batches, rather than as a single document production), with the first production to occur during the week of January 26, 2009.

14. Given the substantial volume of documents gathered, EnerSys respectfully submits that twenty (20) calendar days is a more reasonable and manageable deadline for reviewing, processing and producing such a large volume of documents.

15. The wife of EnerSys' lead counsel, Neil Schur, is pregnant with a due date of January 28, 2009. EnerSys also requests the additional time so that Mr. Schur can coordinate the document production and still attend to his wife and imminently due infant child.

16. Simply stated, EnerSys respectfully requests that the Court modify the Order to require EnerSys to produce all responsive documents by February 4, 2009.

17. EnerSys has attempted to confer with counsel for Respondent and Complaint Counsel regarding this issue.

18. Respondent's counsel was willing to agree to an extension in concept but said he could not so agree because Complaint Counsel is not allowing Respondent any latitude on deadlines and apparently intends to vigorously oppose Respondent's motion to reschedule all deadlines by thirty days, which Respondent apparently filed on January 16, 2009.

19. EnerSys respectfully submits that Respondent's position lacks merit in light of the January 16th Order.

20. In light of the January 16th Order, Respondent will suffer no unfair prejudice from allowing EnerSys an extra ten days to produce its documents, as ***Respondent's deadline for deposing EnerSys does not begin to run until EnerSys' document production is complete.***

21. As a result, Respondent suffers no prejudice, and the trial of this matter will not be delayed by the additional ten days.

22. Indeed, as a practical matter, the requested relief will give both Respondent's counsel and Complaint Counsel additional time to review EnerSys' documents because of the rolling document production.

23. EnerSys respectfully submits that if EnerSys produces all of its documents at one time, and the depositions must be completed within 14 days, Respondent and Complaint Counsel

will not have time to review and analyze the documents and prepare them for use as exhibits at depositions.

24. EnerSys' counsel was unable to reach Complaint Counsel because of the Martin Luther King, Jr. holiday on January 19, 2009 and the closing of federal offices on January 20, 2009 for security reasons during the Presidential Inauguration.

25. Simply stated, EnerSys is attempting to comply and intends to comply with both the Subpoena and the January 15th Order, but needs more time to do so.

WHEREFORE, EnerSys respectfully requests that the Court modify the Order to require EnerSys to produce all responsive documents within twenty (20) calendar days.

Dated: January 20, 2009

STEVENS & LEE, P.C.

By Neil C. Schur / E.V. Lipkowitz
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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**


In the Matter of Polypore International, Inc. a corporation.)))))))	Docket No. 9327 PUBLIC
<u>STATEMENT OF COUNSEL PURSUANT TO 16 C.F.R. § 3.22(f)</u>		

Counsel for the moving party, Neil C. Schur, Esquire, has conferred with counsel for Respondent, Eric D. Welsh, Esquire and Brian Weyhrich, Esquire, and Complaint Counsel, Steven A. Dahm, Esquire, in an effort in good faith to resolve by agreement the issues raised by the motion and have been unable to reach such an agreement.

Counsel for EnerSys conferred with Respondent's counsel by telephone on January 16 and 19, 2009.

Counsel for EnerSys attempted to reach Complaint Counsel on January 19, 2009 but was unable to reach Complaint Counsel because of the Martin Luther King, Jr. holiday on January 19, 2009 and the closing of federal offices on January 20, 2009 for security reasons during the Presidential Inauguration.

Dated: January 20, 2009



Neil C. Schur, Esquire
STEVENS & LEE, P.C.
Counsel for EnerSys

CERTIFICATE OF SERVICE

I hereby certify that on January 20, 2009, I filed via overnight courier and electronic mail delivery an original and two copies of the foregoing Motion to Extend Time to Produce Documents and proposed Order with:

Donald S. Clark, Secretary
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-135
Washington, DC 20580
secretary@ftc.gov

I hereby certify that on January 20, 2009, I delivered via overnight courier and electronic mail delivery two copies of the foregoing Motion to Extend Time to Produce Documents and proposed Order to:

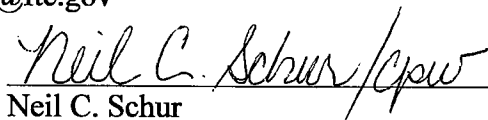
The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
oalj@ftc.gov

I hereby certify that on January 20, 2009, I served via overnight courier and electronic mail delivery a copy of the foregoing Motion to Extend Time to Produce Documents and proposed Order on:

Eric D. Welsh, Esquire
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Three Wachovia Center
401 S. Tryon Street, Suite 3000
Charlotte, NC 28202
ericwelsh@parkerpoe.com

Steven A. Dahm, Esquire
Federal Trade Commission
Bureau of Competition
Mergers II Division
601 New Jersey Avenue, NW
Washington, D.C. 20001
sdahm@ftc.gov

Date: January 20, 2009


Neil C. Schur

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of

**Polypore International, Inc.
a corporation.**

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) **Docket No. 9327**
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ORDER

Upon consideration of the motion of EnerSys, it is hereby ordered that the Order dated January 15, 2009 is hereby modified to allow EnerSys twenty (20) calendar days to produce documents responsive to Respondent's subpoena duces tecum.

ENTER:

Administrative Law Judge D. Michael Chappell