

ORIGINAL



UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of )  
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)  
)  
Polypore International, Inc. )  
a corporation )  
)  
)

Docket No. 9327

Public Document

**RESPONDENT’S MOTION FOR EXTENSION OF TIME**

Respondent Polypore International, Inc. (“Polypore”), respectfully requests a modification of the Scheduling Order (as amended by this Court’s February 4, 2009 order)(“Amended Scheduling Order”) for the purpose of extending certain dates as related to Respondent’s expert, Dr. James Mark Stevenson (“Dr. Stevenson”). Respondent respectfully requests a one week extension of the following dates: (a) the deadline to provide the expert witness report of Dr. Stevenson; (b) the deadline for Complaint Counsel to identify rebuttal experts and provide rebuttal expert reports in response to the expert report of Dr. Stevenson; (c) the deadline for the expert deposition of Dr. Stevenson (and rebuttal experts, if any, identified by Complaint Counsel in response to Dr. Stevenson’s expert report); and (d) the deadline for filing motions *in limine* and motions to strike only as such motions relate to the expert report or deposition of Dr. Stevenson or to corresponding rebuttal evidence. All other dates in the Amended Scheduling Order, including the deadlines relating to experts other than Dr. Stevenson, remain unaffected by this consent motion.

In accordance with 16 C.F.R. §§ 3.22 and 4.3(b) Respondent states the following in support of this consent motion:

1. On December 18, 2008, Respondent’s Counsel identified Dr. Stevenson as an expert witness in this matter.

2. Pursuant to the Amended Scheduling Order, the deadline for Respondent's Counsel to submit Dr. Stevenson's expert witness report was March 20, 2009.

3. On March 19, 2009, Dr. Stevenson was finalizing his expert report for submission the following day.

4. Also on March 19, 2009, however, Dr. Stevenson was informed by counsel for Exide Technologies ("Exide"), an interested third party in this proceeding, that Exide had "concerns" over Dr. Stevenson's acting as an expert witness in this case and threatening him with the possibility of a lawsuit if he testified in this matter. *See* Exide's Counsel's March 19, 2009 letter attached as Exhibit A hereto.

5. Later that day, Exide's counsel provided a copy of the "Confidentiality Agreement" referred to in Exide's Counsel's March 19, 2009 letter which is part of a 25-year old employment agreement and subject to the laws of the United Kingdom. Dr. Stevenson has not been employed by Exide for over two years.

6. Respondent respectfully requests that deadlines in the Amended Scheduling Order relating to Dr. Stevenson be extended by one week so that Dr. Stevenson be permitted time to confer with Exide regarding their positions and threats, and to obtain and confer with United Kingdom counsel in order to assess Exide's threatened claims.

7. In the interest of equity, Respondent requests that the one week extension be applied to all deadlines relating to Dr. Stevenson, as set forth herein.

8. Respondent requests that the March 20, 2009 deadline to provide the expert witness report of Dr. Stevenson be extended through March 27, 2009.

9. Respondent requests that the March 27, 2009 deadline for Complaint Counsel to identify rebuttal experts and provide rebuttal expert reports in response to the expert report of Dr. Stevenson be extended through April 3, 2009.

10. Respondent requests that the April 3, 2009 deadline for the expert deposition of Dr. Stevenson (and the deposition(s) of rebuttal experts, if any, identified by Complaint Counsel in response to Dr. Stevenson's expert report) be extended through April 10, 2009.

11. Finally, Respondent requests that the April 6, 2009 deadline for filing motions *in limine* and motions to strike, only as such motions relate to the expert report or deposition of Dr. Stevenson or to corresponding rebuttal evidence, be extended through April 13, 2009.

12. The one week extension sought to the deadlines set forth above affects no other date in the Amended Scheduling Order, including the deadlines applicable to other expert witnesses.

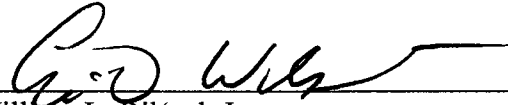
13. The proposed extension does not affect the hearing date scheduled for May 12, 2009.

14. Complaint Counsel, Benjamin Gris, Esq., stated to Counsel for Respondent, Eric D. Welsh, Esq., that he has insufficient knowledge of the above facts but consents to the one-week extensions of the deadlines described above.

Pursuant to 16 C.F.R. § 4.3(b), the Administrative Law Judge may, for good cause shown, extend any time limit prescribed or allowed by the rules of Chapter 16 or by order of the Commission or the Administrative Law Judge. Accordingly, the undersigned counsel respectfully requests that specific deadlines set forth herein, as they relate to Dr. James Mark Stevenson, be extended by one week as described above. A proposed order is attached.

Dated: January 23, 2009

Respectfully Submitted,



William L. Rikard, Jr.

Eric D. Welsh

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*Attorneys for Respondent*

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

<b>In the Matter of</b>	)	
	)	<b>Docket No. 9327</b>
	)	
<b>Polypore International, Inc.</b>	)	
<b>a corporation</b>	)	<b>Public Document</b>
	)	

**STATEMENT PURSUANT TO SCHEDULING ORDER**

I, Eric D. Welsh, Esq., on behalf of Parker Poe Adams & Bernstein LLP (“Parker Poe”) as counsel for Polypore International, Inc. (“Polypore”), hereby represent that Parker Poe has conferred with Complaint Counsel in an effort in good faith to resolve by agreement the issues raised by the instant motion and that Benjamin Gris, Esq., on behalf of Complaint Counsel, indicated his consent to extensions requested in the consent motion.

Dated: March 23, 2009

Respectfully Submitted,



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**PROPOSED ORDER**

On \_\_\_\_\_, Respondent Polypore International, Inc. (“Polypore”) filed a motion for extensions of time. Polypore has demonstrated good cause for extending the specified deadlines. Accordingly, Polypore’s motion is GRANTED.

It is hereby ORDERED that (a) the March 20, 2009 deadline to provide the expert witness report of Dr. Stevenson be extended through March 27, 2009; (b) the March 27, 2009 deadline for Complaint Counsel to identify rebuttal experts and provide rebuttal expert reports in response to the expert report of Dr. Stevenson be extended through April 3, 2009; (c) the April 3, 2009 deadline for the expert deposition of Dr. Stevenson (and the deposition(s) of rebuttal experts, if any, identified by Complaint Counsel in response to Dr. Stevenson’s expert report) be extended through April 10, 2009; and (d) the April 6, 2009 deadline for filing motions *in limine* and motions to strike, only as such motions relate to the expert report or deposition of Dr. Stevenson or to corresponding rebuttal evidence, be extended through April 13, 2009.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Administrative Law Judge

Date: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on March 24, 2009, I caused to be filed via hand delivery and electronic mail delivery an original and two copies of the foregoing ***Respondent's Motion for Extension of Time***, and that the electronic copy is a true and correct copy of the paper original and that a paper copy with an original signature is being filed 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](mailto:secretary@ftc.gov)

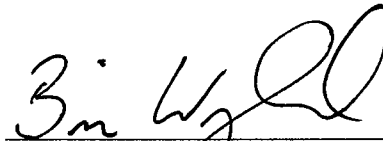
I hereby certify that on March 23, 2009, I caused to be served one copy via electronic mail delivery and two copies via overnight mail delivery of the foregoing ***Respondent's Motion for Extension of Time*** upon:

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

I hereby certify that on March 23, 2009, I caused to be served via first-class mail delivery and electronic mail delivery a copy of the foregoing ***Respondent's Motion for Extension of Time*** upon:

J. Robert Robertson, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
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Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
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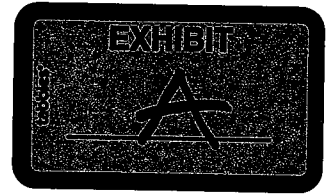


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Donald J. Russell

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March 19, 2009

BY MAIL AND EMAIL

Dr. James Mark Stevenson  
213 Higher Lane  
Lymm  
Cheshire  
WA13 ORN  
United Kingdom

Dear Dr. Stevenson:

I am writing to you on behalf of Exide Technologies, which has retained me to protect the company's interest in preserving the confidentiality of its proprietary information. It has come to our attention that you have contracted to serve as an expert witness in litigation brought by the United States Federal Trade Commission against Polypore International, Inc.

As you know, your employment by Exide was conditioned on a contractual commitment that requires you to keep secret all confidential information that you acquired during your employment with the company. The contract also prohibits your use of such information to your own or another's advantage. Confidential information includes, among other things, any technical or commercial information as well as information about research and development projects or planned research and development projects concerning products or manufacturing processes. Your contractual obligation to maintain the confidentiality of such information did not terminate when your employment with Exide ended, but continues so long as the information remains confidential.

We have concerns that your work as an expert witness for Polypore may conflict with your continuing obligations under your employment agreement. We believe that there is a risk that your work as an expert witness will require the disclosure of confidential information in your testimony or, at the very least, in your discussions with counsel for Polypore. We expect you to



**ROBBINS, RUSSELL, ENGLERT, ORSECK & UNTEREINER LLP**

Dr. James Mark Stevenson  
March 19, 2009  
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comply fully with your contractual obligations, but Exide Technologies will take action, if necessary, to protect the confidentiality of its proprietary information.

If you have any questions concerning this matter, please feel free to contact me.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Donald J. Russell".

Donald J. Russell  
Counsel for Exide Technologies

cc: Barbara Hatcher  
William Rickard