

ORIGINAL



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of )  
)  
)

POLYPORE INTERNATIONAL, INC., )  
Respondent. )  
)  
)

Docket No. 9327

**ORDER ON NON-PARTY EXIDE'S SUPPLEMENTAL  
MOTION FOR *IN CAMERA* TREATMENT**

**I.**

Pursuant to Rule 3.45(b) of the Commission's Rules of Practice and the October 22, 2008 Scheduling Order in this matter, non-party Exide Technologies ("Exide") submitted on May 13, 2009 a supplemental motion for *in camera* treatment. Neither Complaint Counsel nor Respondent oppose Exide's supplemental motion.

An Order on Non-Parties' Motions for *in Camera* Treatment was entered in this matter on May 6, 2009. An Order on Respondent's Second Motion for *in Camera* Treatment was entered in this matter on May 13, 2009. The legal standards that apply to motions for *in camera* treatment, including the instant motion, are set forth in those Orders.

**II.**

In an earlier motion, submitted on April 9, 2009, Exide sought *in camera* treatment for materials including certain documents over three years old, bearing Bates stamps EX002390 through EX002451. The May 6, 2009 Order on Non-Parties' Motions for *in Camera* Treatment denied without prejudice *in camera* treatment for the documents bearing those Bates stamps, "to allow the company an opportunity to demonstrate, if it can, that *in camera* treatment would be warranted."

Exide's supplemental motion asserts that *in camera* treatment is warranted not only for those documents, which Complaint Counsel designated as proposed trial exhibit PX 1049, but also for additional documents that Complaint Counsel later identified as proposed trial exhibits. Exide avers that on May 4, 2009, it received notice that those additional documents had been designated by Complaint Counsel as PX 2295 and PX 2296.

Exide supports its supplemental motion with a Declaration from Pradeep Menon, the Vice President of Commodities and Strategic Supplier Development at Exide (“Menon Declaration”). Menon declares that Exide will suffer serious commercial or competitive harm if the information in the documents appended to his Declaration – i.e., the proposed trial exhibits PX 1049 at Tab 1, PX 2295 at Tab 2, and PX 2296 at Tab 3 – were publicly released. Menon further declares that the material for which *in camera* treatment is sought is regarded by Exide as highly confidential; is distributed within Exide only to those who have a specific need for it, who are typically bound by confidentiality agreements that would prohibit them from disclosing the information if they left Exide; and is not disclosed to others outside of Exide.

The Menon Declaration describes the documents at Tab 1 as contracts and contract amendments that were executed at various times from 1999 to 2002, but that remain in effect today, and that will continue to govern the battery separator supply arrangements between Exide and Daramic until December 2009. Exide seeks redactions of the portions of those documents that it has indicated by yellow highlighting, because those highlighted portions contain, according to the Menon Declaration, information about prices, payment terms, volumes, and other competitively sensitive information.

Menon states that the documents at Tabs 2 and 3 relate to the most recent proposal by Daramic for a new supply contract with Exide. Menon further states that these documents include minutes and notes reflecting Exide’s internal analysis of Daramic’s proposal, as well as documents created by Daramic to explain its proposal.

A review of the Menon Declaration and of the documents themselves reveals that the documents meet the standards for *in camera* treatment. Exide has shown that the documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. That showing has been balanced against the importance of the information in explaining the rationale of decisions at the Commission. Exide’s supplemental motion is, accordingly, GRANTED.

Exide requests *in camera* treatment for one year for the highlighted information at Tab 1, for which it proposes redaction. Exide requests *in camera* treatment for three years for the documents at Tabs 2 and 3.

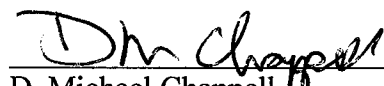
*In camera* treatment for a period of one year, expiring on June 1, 2010, will be extended to the documents at Tab 1, in accordance with Section III of this Order. *In camera* treatment for a period of three years, expiring on June 1, 2012, will be extended to the documents at Tabs 2 and 3, in accordance with Section III of this Order.

### III.

*In camera* treatment is appropriate only for information that is offered into evidence. Complaint Counsel shall prepare an order, with a signature line for the Administrative Law Judge, that lists by exhibit number the documents that, by this Order, have been granted *in camera* treatment and that sets forth the expiration date of *in camera* treatment for each exhibit.

Exide shall inform its testifying current or former employees that *in camera* treatment has been extended to the material described in this Order. At the time that any documents, or portions of documents, that have been granted *in camera* treatment are offered into evidence, or before any of the information contained therein is referred to in court, the parties shall identify such documents and the subject matter therein as *in camera*, inform the court reporter of the trial exhibit number(s) of such documents, and request that the hearing go into an *in camera* session.

ORDERED:

  
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D. Michael Chappell  
Chief Administrative Law Judge

Date: May 18, 2009