

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 RESPONDENT'S FIFTH
MOTION FOR *IN CAMERA* TREATMENT**

I.

Pursuant to Rule 3.45(b) of the Commission's Rules of Practice and the October 15, 2009 Order Granting Respondent's Second Motion to Reopen the Hearing Record and Setting Hearing Schedule, as revised by the October 23, 2009 Order Granting Motion to Revise Hearing Schedule, Respondent Polypore International, Inc. ("Polypore") submitted its fifth motion for *in camera* treatment on November 3, 2009 ("motion"). Respondent's motion seeks *in camera* treatment for certain trial exhibits and for possible trial testimony by Polypore witnesses.

Complaint Counsel's submitted its opposition on November 6, 2009. Complaint Counsel takes no position with respect to Respondent's motion for *in camera* treatment of its proposed trial exhibits, but does oppose Respondent's motion for *in camera* treatment for possible trial testimony by Polypore witnesses.

For the reasons set forth below, Respondent's motion is GRANTED in part and DENIED in part.

II.

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

A.

Respondent's motion seeks *in camera* treatment for certain proposed trial exhibits containing confidential information. Respondent asserts that these proposed exhibits are highly sensitive and proprietary and that public disclosure would divulge Polypore's most sensitive and confidential information to competitors and/or customers, and would cause irreparable harm and

serious injury to Polypore. Respondent supports its motion with a Declaration from Michael Shor, Special Counsel for Polypore. Shor describes the documents for which *in camera* treatment is sought and declares that each document contains sensitive and confidential information, the disclosure of which would seriously injure Respondent. Shor further declares that each document has been maintained internally by Respondent in a confidential manner, and is shared only with those individuals requiring the information contained therein. According to his Declaration, the documents that Respondent designates as proposed trial exhibits are organized into five categories: (1) business plans and strategies, (2) contract negotiations and customer contracts, (3) customer-specific documents, (4) costing data, and (5) sales and financial information.

Shor's Declaration supports Respondent's claims that the documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. That showing was balanced against the importance of the information in explaining the rationale of decisions at the Commission.

Respondent requests *in camera* treatment for the proposed trial exhibits for a period of three or five years, depending on the document type. While *in camera* treatment will be granted for the periods requested, the expiration date of *in camera* treatment will be altered for administrative convenience. Previously issued orders which granted *in camera* treatment for periods of three or five years set expiration dates of June 1, 2012 and June 1, 2014. So that all *in camera* treatment orders will expire at the same time, the expiration dates of the *in camera* treatment granted in this order will also expire on June 1, 2012 and June 1, 2014.

With respect to the documents for which Respondent seeks *in camera* treatment, Respondent's Fifth Motion for *In Camera* Treatment is GRANTED.

In camera treatment for a period of three years, expiring on June 1, 2012, will be extended to the documents for which Respondent requests *in camera* treatment of that duration, in accordance with Section III of this Order.

In camera treatment for a period of five years, expiring on June 1, 2014, will be extended to the documents for which Respondent requests *in camera* treatment of that duration, in accordance with Section III of this Order.

B.

Respondent's motion also seeks *in camera* treatment for possible trial testimony by Polypore witnesses. Complaint Counsel opposes that request.

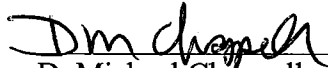
It is not appropriate to designate all trial testimony as *in camera* before any of it has taken place. If counsel wishes to elicit testimony on information that has been granted *in camera* treatment, questions pertaining to *in camera* information shall be segregated into a separate portion of the examination of the witness. Trial will go into an *in camera* session when testimony on *in camera* documents is elicited.

Accordingly with respect to the testimony to be offered by Polypore witnesses, Respondent's Fifth Motion for *In Camera* Treatment is DENIED.

III.

At the conclusion of the hearing scheduled for November 12, 2009, Respondent shall prepare a proposed order, with a signature line for the Administrative Law Judge, that lists, by exhibit number, the documents which have been admitted and have been granted *in camera* treatment by this order and that sets forth the expiration date of *in camera* treatment for each exhibit.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: November 10, 2009