

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

_____)	
In the Matter of)	
)	
MCWANE, INC.,)	DOCKET NO. 9351
a corporation, and)	
)	
STAR PIPE PRODUCTS, LTD.,)	
a limited partnership.)	
_____)	

**ELECTROSTEEL USA, LLC'S UNOPPOSED MOTION
FOR *IN CAMERA* TREATMENT OF PROPOSED EVIDENCE**

Electrosteel USA, LLC (“Electrosteel”), which is not a party to the above-captioned action, respectfully requests that this Court grant *in camera* treatment for several documents and deposition designations (the “Confidential Information”) that the Federal Trade Commission (“Complaint Counsel”) and counsel for McWane, Inc. (“Respondent”) have designated for possible introduction at the administrative trial in this matter.

By letters dated July 17, 2012, Complaint Counsel and Respondent notified Electrosteel that each intends to introduce into evidence documents produced by Electrosteel in response to subpoenas issued by Complaint Counsel and Respondent, along with selected excerpts of a deposition taken of Electrosteel’s Business Development Manager, Mr. Danny Swalley.

Electrosteel has conferred with both complaint and Respondent's counsel regarding this motion and the relief it seeks. Electrosteel is authorized by Respondent's counsel to state that Respondent has no objection to the granting of Electrosteel's motion. Electrosteel is authorized by Complaint Counsel to state that the Commission takes no position regarding Electrosteel's motion but does not intend to oppose it.

Electrosteel seeks *in camera* treatment for the following Confidential Information, which will be discussed in greater detail below:

Designated by Respondent

- A. Electronic file ESMCW0000002 McWane Response Ftgs Sold Request 3.xlsx; physical document designated by Respondent as Defendant's Exhibit Electrosteel 1.¹
- B. Danny Swalley Deposition excerpt 252:13-252:22.²
- C. Danny Swalley Deposition excerpt 74:24-78:19.³

Designated by Complaint Counsel

- D. FTC Exhibit No. CX1546; (Bates range FTC-ESFTC-000002-000017); 3/30/2010 email from Danny Swalley to Piush Lohia re: USA business, including the following attachments: Saluda Water Adden 1.pdf; Sales Territory Anlz 3.29.10.xls; and Business plan 3.26.10.xls.⁴

¹ Attached hereto as Exhibit A. The physical copy of this document that was attached to Respondent's July 17, 2012 letter is labeled "Defendant's Exhibit Electrosteel 1." The electronically produced version of this document bears the file name ESMCW0000002 McWane Response Ftgs Sold Request 3.xlsx.

² Attached hereto as Exhibit B.

³ Attached hereto as Exhibit C.

⁴ Attached hereto as Exhibit D.

- E. FTC Exhibit No. CX1549; (Bates range FTC-ESFTC-000250-000251); 2/7/2012 email from Danny Swalley to Vikash Agrawal re: Fittings, including the following attachment: Urgent Fittings 2.7.12.xlsx.⁵
- F. FTC Exhibit No. CX1553; electronic file name ESFTC000003 FTC Response Ftgs Response 3.xlsx.⁶
- G. Danny Swalley Deposition excerpt 185:19-23.⁷
- H. Danny Swalley Deposition excerpt 221:25-232:15.⁸
- I. Danny Swalley Deposition excerpt 71:6-19.⁹
- J. Danny Swalley Deposition excerpt 183:19-185:19.¹⁰

BACKGROUND

Electrosteel is the United States subsidiary of Electrosteel Castings, Ltd., a publicly traded Indian company that has been in business since the 1950s and is one of the top five producers of ductile iron pipe in the world. Electrosteel Castings, Ltd., has maintained its technological leadership by continual product innovation and technical upgrades. About 40 percent of Electrosteel Castings, Ltd.'s ductile iron pipe and fittings production is exported to various countries in Europe, America, Southeast Asia, the Middle East, and North and South

⁵ Attached hereto as Exhibit E.

⁶ Attached hereto as Exhibit F.

⁷ Attached hereto as Exhibit G.

⁸ Attached hereto as Exhibit H.

⁹ Attached hereto as Exhibit I.

¹⁰ Attached hereto as Exhibit J.

African Countries. Overseas offices and subsidiary companies have been established in France, Spain, the United Kingdom, Singapore, and Algeria.

Movant, Electrosteel, is a relatively new entrant into the United States market, having announced its United States presence at the American Water Works Association Annual Conference and Exposition 2008. Electrosteel is a direct competitor of Respondent McWane in the U.S. market, both in the sale of ductile iron pipe and ductile iron fittings.

The information contained in the above-listed documents and testimony is competitively sensitive and is held in strict confidence by Electrosteel. Public disclosure of that information is likely to cause both direct and serious harm to Electrosteel's competitive position in the ductile iron fittings, ductile iron pipe, and flange pipe markets in the United States. Therefore, pursuant to 16 C.F.R. § 3.45(b), Electrosteel respectfully moves for *in camera* treatment of the Confidential Information. The declaration of Danny Swalley in support of this motion is attached hereto as Exhibit L.

**ELECTROSTEEL'S CONFIDENTIAL
INFORMATION DESERVES *IN CAMERA* TREATMENT UNDER
THE FEDERAL TRADE COMMISSION'S RULES OF PRACTICE**

The Confidential Information described in this motion should receive *in camera* treatment as provided by 16 C.F.R. § 3.45(b). Under that regulation,

requests for *in camera* treatment must show that public disclosure of the material at issue will result in “clearly defined, serious injury to the person, partnership, or corporation requesting *in camera* treatment.” 16 C.F.R. § 3.45(b); *H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961). That showing can be made by establishing that the material in question is “sufficiently secret and sufficiently material” to the movant’s business “that disclosure would result in competitive injury.” *In re General Foods Corp.*, 95 F.T.C. 352, 355 (1980). In this context, “the courts have generally attempted to protect confidential business information from unnecessary airing.” *H.P. Hood & Sons, Inc.* at 1188. Further, “the likely loss of business advantages is a good example of a clearly defined, serious injury.” *In re Dura Lube Corp.*, 1999 FTC LEXIS 255, at *7 (1999) (punctuation omitted).

Finally, with regard to the deposition excerpts at issue, the fact that Electrosteel has narrowly tailored those portions that require *in camera* treatment should weigh in favor of granting this motion. *See In re Union Oil Co. of Calif.*, 2005 FTC LEXIS 9, at * 1 (Jan. 19, 2005) (granting *in camera* treatment where parties sought it only “for narrowly tailored portions of deposition testimony”). Here, applying those standards, *in camera* treatment is warranted.

**ELECTROSTEEL HAS PRESERVED THE
CONFIDENTIALITY OF THE CONFIDENTIAL INFORMATION**

Electrosteel has taken significant steps to protect the confidential nature of the Confidential Information, which was produced pursuant to compulsory processes and under the terms of the January 5, 2012 Protective Order Governing Discovery Material in this matter (the “Protective Order”), which was issued to protect the Confidential Information in question here. Consistent with the Protective Order, Electrosteel’s counsel affixed the following legend to the discs containing the documents produced to the Federal Trade Commission and McWane, Inc.: “Confidential - FTC Docket No. 9351.”¹¹ Swalley Dec. ¶3.

Furthermore, Electrosteel has taken substantial measures to guard the secrecy of the Confidential Information by limiting the dissemination of that information and taking every reasonable step to protect its confidentiality. *Id.* The Confidential Information is only disclosed to selected Electrosteel employees and upper management of Electrosteel’s Indian parent company, Electrosteel Castings, Ltd.; the Confidential Information is not known outside of Electrosteel except to the extent necessary to facilitate customer transactions; and the Confidential Information would be extremely difficult, time consuming,

¹¹ Scanned copies of the discs containing Electrosteel’s production are attached hereto as Exhibit K.

and expensive for Electrosteel's competitors or other outside persons to access or duplicate. *Id.*

DISCLOSURE OF THE CONFIDENTIAL INFORMATION WOULD RESULT IN SERIOUS COMPETITIVE INJURY TO ELECTROSTEEL

The following is a discussion of the specific reasons supporting Electrosteel's motion and constituting the requisite showing under 16 C.F.R. § 3.45(b).

EXHIBIT A contains a document with the electronic file name of ESMCW0000002 McWane Response Ftgs Sold Request 3.xlsx; the physical manifestation of this document has been designated by Respondent as Defendant's Exhibit Electrosteel 1. This document, which lists in detail Electrosteel's ductile iron fittings sales by customer for the period of July 1, 2009, through April 11, 2012, reveals recent highly confidential and commercially sensitive information regarding Electrosteel's sales, customers, and prices of ductile iron fittings. Public disclosure of this document would reveal to Electrosteel's competitors valuable information about the identity of Electrosteel's customers and the extent to which they buy ductile iron fittings from Electrosteel. It is not unreasonable to assume that Electrosteel's ductile iron pipe competitors, many of whom also offer ductile iron fittings, would target these customers and attempt to influence them into ceasing business

relationships with Electrosteel were the confidential information made available to them. Thus, public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec.

¶4.

Exhibit B contains the following excerpt from Danny Swalley's Deposition: 252:13-252:22. This excerpt refers to Electrosteel's and its Indian parent company, Electrosteel Castings, Ltd.'s plans and discussions pertaining to the potential future hiring of salespeople to support Electrosteel's efforts in the United States. This testimony reveals highly confidential and commercially sensitive information regarding Electrosteel's future business strategies. Public disclosure of this information could be used by Electrosteel's competitors to analyze Electrosteel's confidential business strategies, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶5.

Exhibit C contains the following excerpt from Danny Swalley's Deposition: 74:24-78:19. This excerpt discusses in detail specific

conversations between Electrosteel and individual representatives from distributors with whom Electrosteel has sought to conduct business pertaining to efforts by Electrosteel to make sales to those distributors. This information reveals the identities of customers with whom Electrosteel has been unsuccessful in securing a business relationship. Public disclosure of this information could be used by Electrosteel's competitors to conduct an analysis of Electrosteel's sales strategy and make determinations regarding Electrosteel's successes or failures in the market. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶6.

In the event that the Court finds this four-page passage of Danny Swalley's deposition to be too broad to warrant *in camera* treatment, Electrosteel asks that the following lines receive *in camera* treatment in order to maintain the confidentiality of the individuals and entities being discussed, for the reasons stated above: 74:24; 75:4; 75:6; 75:7; 75:10; 76:4-5; 76:10-12; 76:15; 76:17; 76:20-21; 76:24; 77:9-10; 77:13; 78:6; and 78:12.

EXHIBIT D contains a document designated by the FTC as Exhibit No. CX1546 (Bates range FTC-ESFTC-000002-000017). This document comprises

a 3/30/2010 email from Danny Swalley to Piush Lohia with the subject USA business and the following attachments: Saluda Water Adden 1.pdf; Sales Territory Anlz 3.29.10.xls; and Business plan 3.26.10.xls. This email and its attachments reveal Electrosteel's business plans for 2010 and 2011 and its sales analysis for the Southeast United States, including competitively sensitive hiring, sales, target, and cost information pertaining to ductile iron fittings and ductile iron pipe. Electrosteel's business plan is a core aspect of its business strategy and provides a blueprint to the manner by which Electrosteel conducts its business. Public disclosure of this information would greatly jeopardize Electrosteel's ongoing interest and provide Electrosteel's competitors with the means to analyze Electrosteel's business model, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶7.

EXHIBIT E contains a document designated by the FTC as Exhibit No. CX1549 (Bates range FTC-ESFTC-000250-000251). This document comprises a 2/7/2012 email from Danny Swalley to Vikash Agrawal with the subject Fittings and includes the following attachment: Urgent Fittings 2.7.12.xlsx.

This email and attachment, both generated in February 2012, reveal Electrosteel's entire inventory stocking profile. This information has taken years and considerable expense to develop. In Electrosteel's marketplace, knowledge of what products to maintain in stock is considered proprietary and extremely valuable. Public disclosure of this information would allow Electrosteel's competitors to gain insight into Electrosteel's proprietary inventory procedures, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶8.

EXHIBIT F contains a document designated by the FTC as Exhibit No. CX1553 (electronic file name ESFTC000003 FTC Response Ftgs Response 3.xlsx). This spreadsheet shows Electrosteel's quarterly income statements from the third quarter of 2009 through the first quarter of 2012. This document contains confidential and proprietary information pertaining to every aspect of Electrosteel's recent financial status, including salaries, equity positions, marketing expenses, sales revenue, expenses, and profits. Public disclosure of this information would provide Electrosteel's competitors with valuable insight

into Electrosteel's costs, expenses, profits, and revenues, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶9.

Exhibit G contains the following excerpt from Danny Swalley's Deposition: 185:19-23. This excerpt discusses Electrosteel's current and recent profitability. While the subject is discussed with some generality, the information in the excerpt reveals Electrosteel's unique business strategy in light of the difficulties it has encountered as a new market entrant attempting to gain market share in the United States market. Public disclosure of this information would give Electrosteel's competitors insight into Electrosteel's health and viability, giving Electrosteel's competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶10.

Exhibit H contains the following excerpt from Danny Swalley's Deposition: 221:25-232:15. This excerpt discusses in detail, using specific

figures, Electrosteel's sales of ductile iron fittings in the context of a thorough review of Electrosteel's quarterly income statements from the third quarter of 2009 through the first quarter of 2012, a document for which *in camera* treatment is sought (*see* above and Exhibit F). The testimony not only reveals the information set forth in that confidential and proprietary document, but reveals trends in Electrosteel's financial position in the market and confidential policies pertaining to Electrosteel's relationship with its Indian parent, Electrosteel Castings, Ltd. Public disclosure of this information would provide Electrosteel's competitors with valuable insight into Electrosteel's costs, expenses, profits, and revenues, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶11.

Exhibit I contains the following excerpt from Danny Swalley's Deposition: 71:6-19. This excerpt discusses details about Electrosteel's recent and current sales volumes of ductile iron fittings. Public disclosure of this information would give Electrosteel's competitors insight into Electrosteel's current sales activities and its current health and viability, giving Electrosteel's

competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶12.

Exhibit J contains the following excerpt from Danny Swalley's Deposition: 183:19-185:19. This excerpt discusses details about Electrosteel's current market share, the effect of its current sales volumes on its future economic health, and its future business plans with regard to the United States market for ductile iron fittings. This testimony reveals highly confidential and commercially sensitive information regarding Electrosteel's future business strategies and reveals insight into Electrosteel's current sales activities and its current health and viability. Public disclosure of this information could be used by Electrosteel's competitors to analyze Electrosteel's standing in the market and its confidential business strategies, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets. Swalley Dec. ¶13.

**THE PUBLIC INTEREST IN
DISCLOSURE OF THE CONFIDENTIAL INFORMATION**

**IS OUTWEIGHED BY THE LIKELIHOOD OF SERIOUS
COMPETITIVE HARM TO ELECTROSTEEL**

Electrosteel deserves “special solicitude” as a non-party requesting *in camera* treatment for its confidential business information. *In the Matter of Kaiser Aluminum & Chemical Corporation*, 103 F.T.C. 500, 500 (1984) (order directing *in camera* treatment for sales statistics over five years old).

Reasonable periods of *in camera* treatment encourage non-parties such as Electrosteel to cooperate fully with future discovery requests in adjudicative proceedings. Electrosteel has cooperated with the discovery demands in this matter, and Danny Swalley has submitted to a deposition conducted by Respondent and Complaint Counsel. The disclosure of the Confidential Information would not materially promote the resolution of this matter, nor will the Confidential Information allow for measurable public understanding of this matter. Thus, the balance of interest favors *in camera* protection for the Confidential Information. *See In re Bristol-Myers*, 90 F.T.C. 455, 456 (1977).

IN CAMERA PROTECTION SHOULD EXTEND FOR FIVE YEARS

Because of the highly confidential and proprietary and recent and current nature of the Confidential Information, more lasting protection is appropriate in order to ensure avoidance of the competitive injuries to Electrosteel’s business outlined above. The Confidential Information, once disclosed, will allow

Electrosteel's competitors to analyze fully every aspect of Electrosteel's business model and strategy and will remove any advantage Electrosteel currently enjoys as it seeks to establish itself as a relatively new and innovative entrant in the United States ductile iron fittings, ductile iron pipe, and flange pipe markets. Accordingly, Electrosteel respectfully requests that the Confidential Information be afforded *in camera* protection for a period of five years.

CONCLUSION

The Confidential Information satisfies the standard for *in camera* protection under the Federal Trade Commission's Rules of Practice and relevant case law. Accordingly, this Court should extend *in camera* protection to this confidential material for a period of five years.

This 26th Day of July, 2012.



Charles C. Murphy, Jr.
Georgia Bar No. 530062
Matthew D. Daley
Georgia Bar No. 328815

VAUGHAN & MURPHY
260 Peachtree St., Suite 1600
Atlanta, Georgia 30303
(404) 577-6550
(404) 577-0060 (Facsimile)
Attorneys for Electrosteel USA, LLC

CERTIFICATE OF SERVICE

I hereby certify that I have made due and legal service of the foregoing

by causing copies to be sent via FedEx to:

Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW
Room H-106
Washington, DC 20580

Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW
Room H-135
Washington, DC 20580

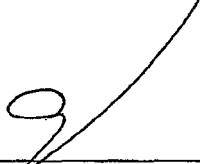
Mr. Thomas W. Thagard III
Maynard, Cooper & Gale, P.C.
1901 Sixth Avenue North
2400 Regions/Harbert Tower
Birmingham, AL 35203

Mr. Edward Hassi
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580

and via email to:

oalj@ftc.gov
tthagard@maynardcooper.com
ehassi@ftc.gov
mcastillo@ftc.gov

This 26th day of July, 2012.



Matthew D. Daley
Georgia Bar No. 328815

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

In the Matter of)

MCWANE, INC.,)
a corporation, and)

STAR PIPE PRODUCTS, LTD.,)
a limited partnership.)

DOCKET NO. 9351

PROPOSED ORDER

On July 27, 2012, Non-Party Electrosteel USA, LLC (“Electrosteel”) filed a motion for *in camera* treatment of confidential business information contained in various documents and deposition excerpts that have been identified by Respondent and Complaint Counsel as potential trial exhibits.

IT IS HEREBY ORDERED that Electrosteel’s motion is **GRANTED**.

The information set forth in the following documents and deposition excerpts shall be subject to *in camera* treatment under 16 C.F.R. § 3.45 and will be kept confidential and not placed on the public record of this proceeding for a period of five years:

- Electronic file name ESMCW0000002 McWane Response Ftgs Sold Request 3.xlsx; physical document designated by Respondent as Defendant’s Exhibit Electrosteel 1.

- Danny Swalley Deposition excerpt 252:13-252:22.
- Danny Swalley Deposition excerpt 74:24-78:19.
- FTC Exhibit No. CX1546; (Bates range FTC-ESFTC-000002-000017); 3/30/2010 email from Danny Swalley to Piush Lohia re: USA business, including the following attachments: Saluda Water Adden 1.pdf; Sales Territory Anlz 3.29.10.xls; and Business plan 3.26.10.xls.
- FTC Exhibit No. CX1549; (Bates range FTC-ESFTC-000250-000251); 2/7/2012 email from Danny Swalley to Vikash Agrawal re: Fittings, including the following attachment: Urgent Fittings 2.7.12.xlsx.
- FTC Exhibit No. CX1553; electronic file name ESFTC000003 FTC Response Ftgs Response 3.xlsx.
- Danny Swalley Deposition excerpt 185:19-23.
- Danny Swalley Deposition excerpt 221:25-232:15.
- Danny Swalley Deposition excerpt 71:6-19.
- Danny Swalley Deposition excerpt 183:19-185:19.

IT IS FURTHER ORDERED that only authorized Federal Trade Commission (the “FTC”) personnel and court personnel concerned with judicial review shall have access to the above-listed material, provided that I, the FTC, and reviewing courts may disclose the *in camera* information to the extent necessary for the proper disposition of the proceeding.

ORDERED:

D. Michael Chappell
Administrative Law Judge

DATED: _____

EXHIBIT A

REDACTED

EXHIBIT B

REDACTED

EXHIBIT C

REDACTED

EXHIBIT D

REDACTED

EXHIBIT E

REDACTED

EXHIBIT F

REDACTED

EXHIBIT G

REDACTED

EXHIBIT H

REDACTED

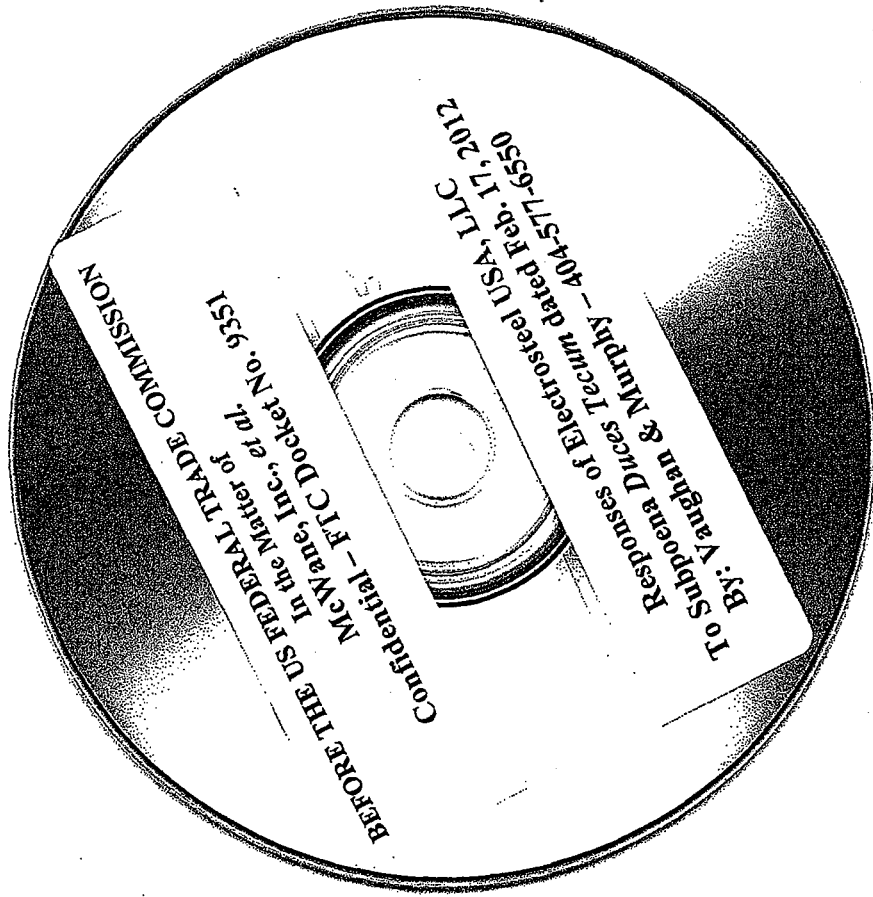
EXHIBIT I

REDACTED

EXHIBIT J

REDACTED

Exhibit K



BEFORE THE US FEDERAL TRADE COMMISSION
In the Matter of
McWane, Inc, et al.
Confidential - FTC Docket No. 9351

Responses of Electrosteel USA, LLC
By: Vaughan & Murphy - 404-577-6550
Feb. 17, 2012

BEFORE THE US FEDERAL TRADE COMMISSION
In the Matter of
McWane, Inc., et al.
Confidential – FTC Docket No. 9351

TDK CD-R

52x 80MIN
700MB

Responses of Electrosteel USA, LLC
To Subpoena *Duces Tecum* dated Mar. 7, 2012
By: Vaughan & Murphy – 404-577-6550

Exhibit L

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

In the Matter of)

MCWANE, INC.,)
a corporation, and)

STAR PIPE PRODUCTS, LTD.,)
a limited partnership.)

DOCKET NO. 9351

**DECLARATION OF DANNY SWALLEY IN SUPPORT OF NON-
PARTY ELECTROSTEEL USA, LLC'S UNOPPOSED MOTION
FOR *IN CAMERA* TREATMENT OF PROPOSED EVIDENCE**

I, Danny Swalley, declare as follows:

1. I am currently the Business Development Manager of Electrosteel USA, LLC (“Electrosteel”), and have held that position since August 2007. In my position, I am responsible for overseeing sales and marketing of ductile iron pipe, ductile iron fittings, and flange pipe in the United States.
2. I have reviewed the documents and testimony for which Electrosteel seeks *in camera* treatment (the “Confidential Information”), and by virtue of my current position with Electrosteel, I either prepared or am familiar with the information contained in the Confidential Information. Based

upon my review of the Confidential Information, my knowledge of Electrosteel's business, and my familiarity with the confidential protection afforded to this type of information by Electrosteel, it is my belief that disclosure of the Confidential Information to the public and to Electrosteel's competitors would cause serious and irreparable competitive injury to Electrosteel.

3. Electrosteel has taken substantial measures to guard the Confidential Information contained in Exhibits A through J by limiting its dissemination and taking every reasonable step to protect its confidentiality. Electrosteel produced the Confidential Information under compulsory subpoena processes and pursuant to the January 5, 2012 Protective Order Governing Discovery Material ("Protective Order"), which is intended to protect the Confidential Information at issue here. Consistent with the Protective Order, Electrosteel's counsel affixed the following legend to the discs containing the documents produced to the Federal Trade Commission and McWane, Inc.: "Confidential - FTC Docket No. 9351." The Confidential Information is only disclosed to selected Electrosteel employees and upper management of Electrosteel's Indian parent company, Electrosteel Castings, Ltd.; the Confidential

Information is not known outside of Electrosteel except to the extent necessary to facilitate customer transactions. The Confidential Information would be extremely difficult, time consuming, and expensive for Electrosteel's competitors or other outside persons to access or duplicate.

4. **EXHIBIT A: Electronic file name ESMCW0000002 McWane Response Ftgs Sold Request 3.xlsx; physical document designated by Respondent as Defendant's Exhibit Electrosteel 1.** This document, which lists in detail Electrosteel's ductile iron fittings sales by customer for the period of July 1, 2009, through April 11, 2012, reveals recent highly confidential and commercially sensitive information regarding Electrosteel's sales, customers, and prices of ductile iron fittings. Public disclosure of this document would reveal to Electrosteel's competitors valuable information about the identity of Electrosteel's customers and the extent to which they buy ductile iron fittings from Electrosteel. It is not unreasonable to assume that Electrosteel's ductile iron pipe competitors, many of whom also offer ductile iron fittings, would target these customers and attempt to influence them into ceasing business relationships with Electrosteel. Public disclosure of this information

could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

5. **Exhibit B: Danny Swalley Deposition excerpt 252:13-252:22.** This excerpt from Danny Swalley's deposition refers to Electrosteel's and its Indian parent company, Electrosteel Castings, Ltd.'s plans and discussions pertaining to the potential future hiring of salespeople to support Electrosteel's efforts in the United States. This testimony reveals highly confidential and commercially sensitive information regarding Electrosteel's future business strategies. Public disclosure of this information could be used by Electrosteel's competitors to analyze Electrosteel's confidential business strategies, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

6. **Exhibit C: Danny Swalley Deposition excerpt 74:24-78:19.** This excerpt from Danny Swalley's deposition discusses in detail specific conversations between Electrosteel and individual representatives from

distributors with whom Electrosteel has sought to conduct business pertaining to efforts by Electrosteel to make sales to those distributors. This information reveals the identities of customers with whom Electrosteel has been unsuccessful in securing a business relationship. Public disclosure of this information could be used by Electrosteel's competitors to conduct an analysis of Electrosteel's sales strategy and make determinations regarding Electrosteel's successes or failures in the market. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

7. **Exhibit D: FTC Exhibit No. CX1546; (Bates range FTC-ESFTC-000002-000017); 3/30/2010 email from Danny Swalley to Pius Lohia re: USA business, including the following attachments: Saluda Water Adden 1.pdf; Sales Territory Anlz 3.29.10.xls; and Business plan 3.26.10.xls.** This email and its attachments reveal Electrosteel's business plans for 2010 and 2011 and its sales analysis for the Southeast United States, including competitively sensitive hiring, sales, target, and cost information pertaining to ductile iron fittings and ductile iron pipe. Electrosteel's business plan is a core aspect of its business strategy and

provides a blueprint to the manner by which Electrosteel conducts its business. Public disclosure of this information would greatly jeopardize Electrosteel's ongoing interest and provide Electrosteel's competitors with the means to analyze Electrosteel's business model, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

8. **Exhibit E: FTC Exhibit No. CX1549; (Bates range FTC-ESFTC-000250-000251); 2/7/2012 email from Danny Swalley to Vikash Agrawal re: Fittings, including the following attachment: Urgent Fittings 2.7.12.xlsx.** This email and attachment, both generated in February 2012, reveal Electrosteel's entire inventory stocking profile. This information has taken years and a great deal of expense to develop. In Electrosteel's marketplace, knowledge of what products to maintain in stock is considered proprietary and extremely valuable. Public disclosure of this information would allow Electrosteel's competitors insight into Electrosteel's proprietary inventory procedures, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of

this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

9. **Exhibit F: FTC Exhibit No. CX1553; electronic file name**

ESFTC000003 FTC Response Ftgs Response 3.xlsx. This spreadsheet shows Electrosteel's quarterly income statements from the third quarter of 2009 through the first quarter of 2012. This document contains confidential and proprietary information pertaining to every aspect of Electrosteel's recent financial status, including salaries, equity positions, marketing expenses, sales revenue, expenses, and profits. Public disclosure of this information would provide Electrosteel's competitors with valuable insight into Electrosteel's costs, expenses, profits, and revenues, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

10. **Exhibit G: Danny Swalley Deposition excerpt 185:19-23.** This

excerpt from Danny Swalley's deposition discusses Electrosteel's current

and recent profitability. While the subject is discussed with some generality, the information in the excerpt reveals Electrosteel's unique business strategy in light of the difficulties it has encountered gaining market share in the United States market. Public disclosure of this information would give Electrosteel's competitors insight into Electrosteel's health and viability, giving Electrosteel's competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

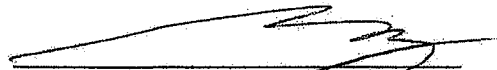
11. Exhibit H: Danny Swalley Deposition excerpt 221:25-232:15. This excerpt from Danny Swalley's deposition discusses in detail, using specific figures, Electrosteel's sales of ductile iron fittings in the context of a thorough review of Electrosteel's quarterly income statements from the third quarter of 2009 through the first quarter of 2012, a document for which *in camera* treatment is sought (*see* above and Exhibit F). The testimony not only reveals the information set forth in that confidential and proprietary document, but reveals trends in Electrosteel's financial position in the market and confidential policies pertaining to

Electrosteel's relationship with its Indian parent, Electrosteel Castings, Ltd. Public disclosure of this information would provide Electrosteel's competitors with valuable insight into Electrosteel's costs, expenses, profits, and revenues, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

12. Exhibit I: Danny Swalley Deposition excerpt 71:6-19. This excerpt from Danny Swalley's deposition discusses details about Electrosteel's recent and current sales volumes of ductile iron fittings. Public disclosure of this information would give Electrosteel's competitors insight into Electrosteel's current sales activities and its current health and viability, giving Electrosteel's competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

13.Exhibit J: Danny Swalley Deposition excerpt 183:19-185:19. This excerpt from Danny Swalley's deposition discusses details about Electrosteel's current market share, the effect of its current sales volumes on its future economic health, and its future business plans with regard to the United States market for ductile iron fittings. This testimony reveals highly confidential and commercially sensitive information regarding Electrosteel's future business strategies and reveals insight into Electrosteel's current sales activities and its current health and viability. Public disclosure of this information could be used by Electrosteel's competitors to analyze Electrosteel's place in the market and its confidential business strategies, giving those competitors an unfair competitive advantage over Electrosteel. Public disclosure of this information could result in irreparable harm to Electrosteel's efforts to maintain and increase its competitiveness in the ductile iron fittings, ductile iron pipe, and flange pipe markets.

I declare under penalty of perjury that the foregoing is true and correct.



Mr. Danny Swalley
Business Development Manager
Electrosteel USA, LLC

Signed this 25th day of July 2012.