

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARKEMA FRANCE,

Petitioner

v.

HONEYWELL INTERNATIONAL, INC.,

Patent Owner

Case IPR2015-00916

Patent 8,710,282

~~Standing~~ Protective Order

This ~~standing~~ protective order governs the treatment and filing of Confidential and Highly Confidential information in this *Inter Partes* Review proceedings, Case No. IPR2015-00916 (“the Proceedings”), including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.”
2. Highly Confidential information refers to information that is current or future business or technical trade secrets, the disclosure of which is likely to significantly harm that party’s competitive position, or the disclosure of which would contravene an obligation of confidentiality to a third person. Highly Confidential information shall be clearly marked “HIGHLY CONFIDENTIAL—PROTECTIVE ORDER MATERIAL.”
3. Information is not Confidential or Highly Confidential if it is disclosed in a printed publication, is known to the public, was known to the recipient without obligation of confidentiality before the producer disclosed it, or is or becomes known to the recipient by means not constituting a breach of this Protective Order. Information is likewise not Confidential or Highly Confidential if a person lawfully obtained it independently of this action.
4. ~~2.~~ Access to Confidential information is limited to the following individuals who have executed the Acknowledgment appended to this order (Exhibit A), except for those individuals identified in subparagraphs F and G who are not required to execute the Acknowledgment:

(A) *Parties*. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.

(B) *Party Representatives*. Representatives of record for a party in the proceeding.

(C) *Experts*. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor, with respect to ~~the subject matter of the proceeding~~1234yf.

(D) *In-house counsel*. Only those in-house counsel of a party working on this matter.

(E) *Other Employees of a Party*. Employees, consultants or other persons performing work for a party, other than in-house counsel and in-house counsel's

support staff, who sign the Acknowledgement shall be extended access to Confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose Confidential information to that person. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to Confidential information.

(F) *The Office*. Employees and representatives of the [United States Patent and Trademark Office](#) (“the Office”) who have a need for access to the Confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(G) *Support Personnel*. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives Confidential information.

5. Subject to Paragraph 7(c) of this Order, access to Highly Confidential information is limited to the following individuals who have executed the Acknowledgement appended to this order (Exhibit A), except for those individuals identified in subparagraph D who are not required to execute the Acknowledgment:

(A) *Party Representatives.* Representatives of record for a party in the proceeding.

(B) *Experts.* Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to 1234yf.

(C) *The Office.* Employees and representatives of the Office who have a need for access to the Highly Confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(D) *Support Personnel.* Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not

be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives the Highly Confidential information.

~~36.~~ Persons receiving Confidential or Highly Confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

(A) Not using the Confidential or Highly Confidential information for any purpose other than the Proceedings or other proceedings between the Parties related to U.S. Patent 8,710,282;

~~(A)~~ Maintaining such information in a secure location to which persons not

(B) authorized to receive the information shall not have access;

(C) ~~(B)~~ Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;

(D) ~~(C)~~ Ensuring that support personnel of the recipient who have access to the Confidential or Highly Confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as Confidential or Highly Confidential; and

(E) ~~(D)~~ Limiting the copying of Confidential or Highly Confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

~~4~~7. Persons receiving Confidential or Highly Confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) *Documents and Information Filed With the Board.*

~~(i)~~(i) A party may file documents or information with the Board under seal, together with a non-confidential description of the nature of the Confidential or Highly Confidential information that is under seal and the reasons why the information is

Confidential or Highly Confidential and should not be made available to the public. The submission shall be treated as Confidential or Highly Confidential and remain under seal, unless, upon motion of a party and after a hearing on the issue, or *sua sponte*, the Board determines that the documents or information do not to qualify for Confidential or Highly Confidential treatment.

~~(i)~~ (ii) Where confidentiality is alleged as to some but not all of the information

submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the Confidential or Highly Confidential version setting forth the reasons why the information redacted from the non-confidential version is Confidential or Highly Confidential and should not be made available to the public. The ~~nonconfidential~~ non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The Confidential or Highly Confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless, upon motion of a party and after a hearing on the

issue, or *sua sponte*, the Board determines that some or all of the redacted information does not qualify for Confidential or Highly Confidential treatment.

(B) *Documents and Information Exchanged Among the Parties*. Information designated as Confidential or Highly Confidential that is disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as “PROTECTIVE ORDER MATERIAL” or “HIGHLY CONFIDENTIAL – PROTECTIVE ORDER MATERIAL”, respectively, and shall be produced in a manner that maintains its confidentiality.

(C) *Conclusion of the Proceedings*. Upon final termination of this *Inter Partes* Review (including termination of any appeal) and other proceedings between the parties related to U.S. Patent 8,710,282, each recipient of Confidential or Highly Confidential information provided by another shall destroy or delete all items containing such Confidential or Highly Confidential information, except that outside counsel of record for each party may maintain an archival copy of such Confidential or Highly Confidential

information in its records. This paragraph shall not apply to the Office, which may retain or destroy Confidential or Highly Confidential information according to its standard recordkeeping procedures.

(E) *Unintentional Disclosure of Attorney-Client or Work Product Material.* If a supplying party through inadvertence produces or provides information or documents that it believes in good faith is subject to a claim of attorney-client privilege or work product immunity, such action shall not constitute a waiver of the attorney-client privilege and/or work product immunity. The supplying party shall give prompt written notice of such inadvertence and request that the inadvertently provided information be returned or destroyed. The supplying party shall promptly provide a replacement, redacted version, at which time the receiving party shall return or destroy the inadvertently produced information within three (3) business days.

(F) *Unauthorized Disclosures.* If Confidential or Highly Confidential information submitted in accordance with this Order is disclosed to any person other than in a manner authorized by

this protective order, the party responsible for the disclosure must immediately bring all pertinent facts relating to such disclosure to the attention of the supplier and the Board and, without prejudice to other rights and remedies of the supplying party, make every effort to prevent further disclosure by it or by the person who was the recipient of such information.

(G) *Challenges to Confidentiality Designations.* Nothing in this order shall abridge the right of a party receiving information that was improperly designated as Confidential or Highly Confidential to challenge whether such information is actually Confidential or Highly Confidential, first by contacting the supplying party, and, if the parties are unable to resolve the dispute, by raising the issue with the Office.

~~(j) Standard Acknowledgement of Protective Order. The following form may be used to acknowledge a protective order and gain access to information covered by the protective order:~~

EXHIBIT A

~~[CAPTION]~~

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**~~Standard~~ Acknowledgment for Access to Protective Order
Material**

I _____, affirm that I
have read the Protective Order; that I will abide by its

terms; that I will use the Confidential or Highly Confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

[Signature]

By: _____

Date: _____

Summary report: Litéra® Change-Pro TDC 7.5.0.155 Document comparison done on 1/22/2016 4:35:15 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: standing protective order - trial_practice_guide.docx	
Modified filename: IPR2015-00916 Proposed Protective Order (Clean).docx	
Changes:	
Add	90
Delete	25
Move From	0
Move To	0
Table Insert	0
Table Delete	0
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	115