



]. Both of these new

facts – [

].

Respondent respectfully submits that the Court should grant this motion and reopen the record to receive this significant new evidence.

**ARGUMENT**

Under the Commission’s Rules of Practice governing this adjudication, Rule 3.51(e)(1) states: “At any time prior to the filing of the initial decision, an Administrative Law Judge may reopen the proceeding for the reception of further evidence.” 16 C.F.R. 3.51(e). As this Court has previously held, a good cause showing is not required for this Court to reopen the record. In the Matter of Polypore International, Inc., Docket No. 9327, Order, September 8, 2009. Nevertheless, as set forth herein, Respondent believes that good cause exists for the Court to grant this motion.

**A. Good Cause Exists to Reopen the Record**

Following the hearing in this matter, [

]:

PO #	Date Issued	Quantity/feet	SQM	Delivery Date	Date Received	Date Confirmed
[						]
[						]
[						]
[						]
[						]
[						]



Third, evidence was presented to this Court regarding {  
}. See Respondent Findings of  
Fact 598, 963-972. The fact that [

]. Indeed, Anpei, at a booth at the 13<sup>th</sup> Asian  
Battery Conference in Macau China in September 2009, represented in a graphic that it sells its  
products, which includes PE separators, to North America. See picture taken at Anpei's booth  
attached hereto at Tab A. This Court is entitled to this evidence to determine the issues before it.

Finally, [

], facts which starkly contradict  
Complaint Counsel's oft-repeated assertions of market power.

**B. There is No Prejudice if the Record is Reopened**

While Complaint Counsel has argued in the past, and no doubt will do so again here, that  
reopening the record is prejudicial because briefing and post trial findings have been completed,  
Complaint Counsel's argument would fail. Whatever inconvenience is caused because the  
briefing and submission of findings has been completed cannot constitute prejudice since Rule  
3.51 permits the opening of the record "any time prior to the filing of his initial decision," not  
any time "prior to completion of briefing" or "prior to completion of the findings of fact." As  
the Rule permits opening the record even after the briefing and finding are done, any  
inconvenience associated with such event cannot be "prejudice" as it is expressly permitted by  
the rule. This is especially true where, as here, the new and additional evidence sought to be

introduced arose after the hearing and briefing was complete. In any event, even if this were “prejudice,” it is shared equally by both sides and can be addressed by permitting limited briefing and findings on the issues. Respondent submits that failure to consider this important new evidence would be far more prejudicial to Respondent and would deprive this Court of critical evidence relevant to its decision.

**C. Respondent’s Proffer**

In support of its motion, Respondent submits the following proffer of evidence.

Through testimony of Respondent’s witnesses and a witness for [            ], Daramic will show:

1. After the close of the record, [

].

2. [

].

3. [

].<sup>5</sup>

4. [

].

5. [

].<sup>6</sup>

### CONCLUSION

For the foregoing reasons, Respondent respectfully requests that this Court grant its motion and reopen the record to permit evidence to be introduced regarding the foregoing subjects at a half-day day hearing on this matter.

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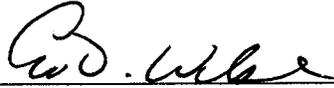
<sup>5</sup> [ ]

<sup>6</sup> Respondent also submits that the foregoing proffered facts are strong evidence supporting that entry can occur in less than 2 years since, [ ]

Moreover, Anpei has in September 2009 represented that it is a global company, available to meet the needs of customers around the world, and specifically, North America.

Dated: September 25, 2009

Respectfully Submitted,



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*Attorneys for Respondent*

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

**In the Matter of**

**Docket No. 9327**

**Polypore International, Inc.  
a corporation**

**PUBLIC DOCUMENT**

**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 Respondent’s Second Motion To Reopen The Hearing Record, and has been unable to reach such an agreement.

Dated: September 25, 2009

Respectfully Submitted,



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

**In the Matter of**

**Docket No. 9327**

**Polypore International, Inc.  
a corporation**

**PUBLIC DOCUMENT**

**PROPOSED ORDER GRANTING RESPONDENT'S SECOND MOTION  
TO REOPEN THE HEARING RECORD**

IT IS ORDERED THAT, upon due consideration, Respondent Polypore International, Inc.'s Second Motion to Reopen the Hearing Record is hereby GRANTED and a further hearing in this matter will had on \_\_\_\_\_ 2009 for purposes of receiving evidence concerning matters stated in Respondent's Second Motion to Reopen the Record.

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

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

**CERTIFICATE OF SERVICE**

I hereby certify that on September 25, 2009, I caused to be filed via hand delivery and electronic mail delivery an original and two copies of the foregoing ***Respondent's Second Motion to Reopen the Hearing Record***, 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

I hereby certify that on September 25, 2009, I caused to be served one copy via electronic mail delivery and two copies via Federal Express delivery of the foregoing ***Respondent's Second Motion to Reopen the Hearing Record*** upon:

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

I hereby certify that on September 25, 2009, I caused to be served via U.S. Mail and electronic mail delivery a copy of the foregoing ***Respondent's Second Motion to Reopen the Hearing Record*** upon:

J. Robert Robertson, Esq.  
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rrobertson@ftc.gov

Steven Dahm, Esq.  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
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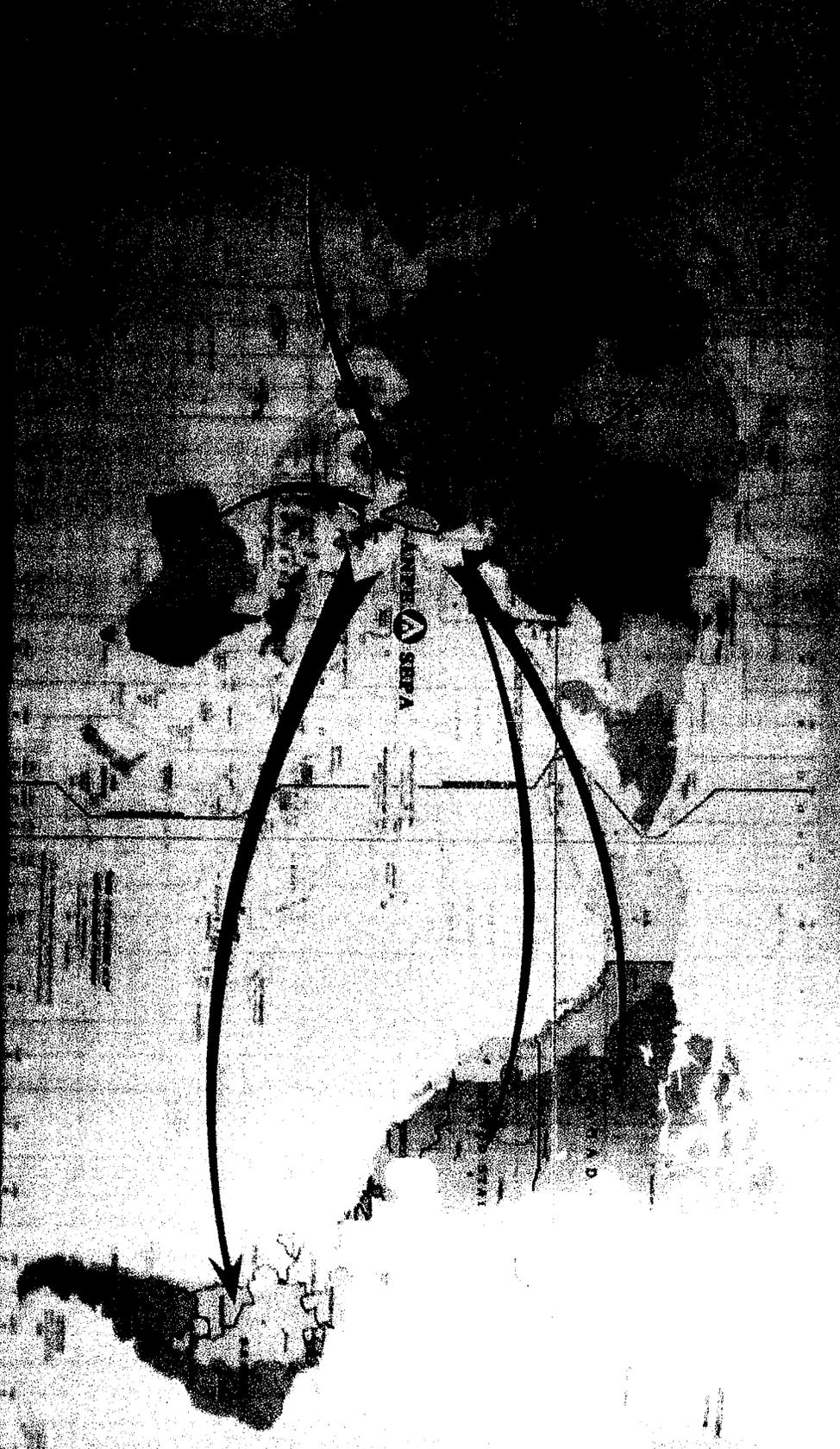


\_\_\_\_\_  
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