

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



In the Matter of

Polypore International, Inc.
a corporation.

Docket No. 9327

Public Document

**COMPLAINT COUNSEL'S RESPONSE TO RESPONDENT'S
FIFTH MOTION FOR *IN CAMERA* TREATMENT OF CERTAIN TRIAL EXHIBITS**

Although the bulk of Respondent's exhibits are not admissible, Complaint Counsel takes no position with respect to Respondent's Motion for *in camera* treatment of its proposed trial exhibits. Complaint Counsel does oppose Respondent's motion for *in camera* treatment for possible trial testimony by Polypore witnesses as premature.

RESPONDENT'S MOTION IS PREMATURE

The Federal Trade Commission strongly favors making available to the public the full record of its adjudicative proceedings to permit public evaluation of the fairness of the Commission's work and to provide guidance to persons affected by its actions. *In re Crown Cork & Seal Co., Inc.*, 71 F.T.C. 1714, 1714-15 (1967); *In re H.P. Hood & Sons, Inc.*, 58 F.T.C. 1184, 1186 (1961). Applicants for *in camera* treatment must "make a clear showing that the information concerned is sufficiently secret and sufficiently material to their business that disclosure would result in serious competitive injury." *In re General Foods Corp.*, 95 F.T.C. 252, 355 (1980). Respondent cannot make a clear showing that the information is secret and material because it cannot predict what questions might be asked by Complaint Counsel, nor exactly what a witness might say on the stand.

The Scheduling Order for this hearing provides only that on November 3, 2009 Respondent may file "motions for *in camera* treatment of proposed exhibits." The scheduling

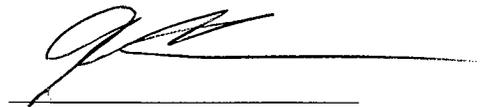
order makes no allowance for designating trial testimony *in camera* at this time. Respondent's Motion is premature. In the previous proceeding in this matter, the Court provided a mechanism whereby the parties could review the testimony and designate portions as public. A similar mechanism would likely be appropriate here. On the other hand, it would not be appropriate to designate all of the trial testimony as *in camera* before any of it has taken place.

CONCLUSION

Complaint Counsel respectfully requests that the Court deny Respondent's Fifth Motion for *In Camera* Treatment of Certain Trial Exhibits, at least with respect to the designation of trial testimony as *in camera*.

Dated: November 6, 2009

Respectfully submitted,



Steven A. Dahm
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CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2009, I filed via hand delivery an original and two copies of the foregoing Complaint Counsel's Response to Respondent's Fifth Motion for *In Camera* Treatment of Certain Trial Exhibits with:

Donald S. Clark, Secretary
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Rm. H-135
Washington, DC 20580

I hereby certify that on November 6, 2009, I served via hand and electronic mail delivery two copies of the foregoing Complaint Counsel's Response to Respondent's Fifth Motion for *In Camera* Treatment of Certain Trial Exhibits with:

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 November 6, 2008, I served via electronic and first class mail delivery a copy of the foregoing Complaint Counsel's Complaint Counsel's Response to Respondent's Fifth Motion for *In Camera* Treatment of Certain Trial Exhibits with:

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