

NO. UWY-CV-14-6026552-S

NUCAP INDUSTRIES, INC. et al.,)	SUPERIOR COURT
)	
Plaintiffs,)	J.D. OF WATERBURY
)	
v.)	
)	
PREFERRED TOOL AND DIE, INC., et al.,)	
)	
Defendants.)	October 11, 2016

PREFERRED’S MOTION TO SEAL
AND MEMORANDUM OF LAW IN SUPPORT

Pursuant to Connecticut Practice Book §§ 7-4B, 7-4C, and 11-20A, Defendants Preferred Tool and Die, Inc. and Preferred Automotive Components (“Preferred”) hereby respectfully move this Court for an order sealing the following portions of Preferred’s Objection to Nucap’s Motion for Order of Compliance and Exhibits thereto (hereinafter the “Confidential Materials”), including:

- Exhibit E – Nucap’s Supplemental Answers to Preferred’s First Set of Interrogatories (1-22) dated October 30, 2015;
- Exhibit H – Portions of Transcript of May 16, 2016 Deposition of Carl Dambrauskas;
- Exhibit M– drawing of Preferred’s PAC20002;
- Exhibit N – drawing of Preferred’s PAC20003;
- Exhibits O – drawing of Preferred’s PAC20017;
- Exhibit P – drawing of Preferred’s PAC20018;
- Exhibit Q – drawing of Preferred’s PAC20002;
- Exhibit R – drawing of a Nucap shim;

ORAL ARGUMENT NOT REQUESTED
TESTIMONY NOT REQUIRED

- Exhibit S – drawing of Preferred’s PAC20017;
- Exhibit T – drawing of a Nucap shim;
- Exhibit U – drawing of Preferred’s PAC20003;
- Exhibit V – drawing of a Nucap shim; and
- Portions of Preferred’s Objection to Nucap’s Motion for Order of Compliance which describe information in any of the above exhibits.

Pursuant to PB §§ 7-4B and 7-4C, Preferred is filing a redacted version of its Objection to Nucap’s Motion for Order of Compliance and is lodging an unreduced copy with the Court contemporaneously herewith.

In support thereof, Preferred represents:

1. This case concerns Nucap’s allegations that Preferred has misappropriated Nucap’s trade secrets and incorporated such trade secrets into various brake parts and drawings produced by Preferred. Given the nature of this case, the Protective Order allows the parties to designate information as either “Confidential” or “Confidential – Attorneys’ Eyes Only.” (See Entry No. 144, Protective Order, at para. 2.)

2. On October 11, 2016, Preferred filed its Objection to Nucap’s Motion for Compliance including Exhibits A-V appended thereto. Nucap previously designated the contents of Exhibit E (Nucap’s Supplemental Answers to Preferred’s Interrogatories) and the contents of Exhibits R, T, and V (Nucap part prints) as “Confidential – Attorneys’ Eyes Only” under the Protective Order. Preferred designated Exhibits M-Q, S, and U (Preferred’s part prints) and Exhibit H (testimony concerning its design process and history) as “Confidential – Attorneys’ Eyes Only” under the Protective Order (collectively the “Confidential Material”).

3. Paragraph 14 of the Protective Order requires that a party intending to use confidential materials in any court filing must file the material under seal. (See Entry No. 144, Protective Order, at para. 2.)

4. The Confidential Material contains Nucap's information which Nucap has indicated, by its designation under the Protective Order, to be of such a sensitive nature that disclosure to an opposing party poses a potential threat of substantial serious or irreparable harm or commercial disadvantage.

5. The Confidential Material also contains Preferred's information which Preferred believes to be of such a sensitive nature that disclosure to an opposing party poses a potential threat of substantial serious or irreparable harm or commercial disadvantage.

6. Connecticut Practice Book § 11-20A provides that the "judicial authority may order that . . . documents . . . on file or lodged with the court . . . be sealed . . . if the judicial authority concludes that such order is necessary to preserve an interest which is determined to override the public's interest in viewing such materials."

7. Here, there is no significant public interest in viewing this Confidential Material. The vast majority of Preferred's Objection brief is un-redacted and only details of the parts and drawings and alleged similarities are withheld. Given the nature of this action in which Nucap alleges that trade secret information has been misappropriated, sealing the Confidential Material is necessary to preserve the confidentiality or alleged confidentiality of such information.

8. In situations similar to this, Connecticut courts have ordered the sealing of confidential, proprietary business information. *Pursuit Partners, LLC v. UBS AG*, 2012 WL 4801418 at *3 (Conn. Super. Ct. Sept. 10, 2012) (entering an order sealing documents that were "in the nature of confidential business information" and finding "an overriding interest to protect

the confidential business information” where “not sealing the materials at this point in the proceedings could damage irreparably the proprietary information”); *Aetna, Inc. v. Fluegel*, 2007 WL 4573800 at *3 (Conn. Super. Ct. Nov. 27, 2007) (entering an order sealing documents, finding such an order necessary to “preserve the secrecy of Aetna’s alleged trade secrets and other alleged confidential and/or proprietary information”).

WHEREFORE, for the foregoing reasons, Preferred request that the Court grant this motion to seal the Confidential Materials.

Dated: October 11, 2016

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CERTIFICATE OF SERVICE

This certifies that a copy of the foregoing was served via electronic mail this 11th day of October, 2016, on all counsel of record at the addresses listed below:

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