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| DOCKET NO. UWY-CV-14-6026552-S | : | SUPERIOR COURT |
| | : | |
| NUCAP INDUSTRIES INC., NUCAP US | : | J.D. WATERBURY |
| INC., as successor to ANSTRO | : | |
| MANUFACTURING, INC.; | : | AT WATERBURY |
| | : | |
| Plaintiffs, | : | NOVEMBER 3, 2016 |
| | : | |
| VS. | : | |
| | : | |
| PREFERRED TOOL AND DIE, INC., | : | |
| PREFERRED AUTOMOTIVE | : | |
| COMPONENTS, a division of PREFERRED | : | |
| TOOL AND DIE; and ROBERT A. BOSCO, | : | |
| JR., | : | |
| | : | |
| Defendants. | : | |

PLAINTIFFS’ MEMORANDUM OF LAW IN SUPPORT OF MOTION TO SEAL

Pursuant to Practice Book Sections 7-4B, 7-4C, and 11 -20A, Plaintiffs, Nucap Industries Inc. and Nucap US Inc., hereby move for an Order sealing limited portions of their Reply in Support of their Motion for an Order of Compliance (“Reply”), their Opposition to Preferred’s Motion for a Protective Order (“Opposition”) and sealing Exhibits 1 to 6 to their Reply and Opposition.

I. BACKGROUND

This action is against Preferred Tool and Die, Inc. and Preferred Automotive Components (“Preferred”) and Robert A. Bosco, Jr. (“Bosco”) for misappropriation of Plaintiffs’ trade secrets and proprietary product design and manufacturing information. After Preferred—a company with no prior experience in the brake industry—either hired or associated itself with several former employees of Plaintiffs, it quickly “came to market” with a line of automotive brake products that had a striking resemblance to products manufactured and designed by Plaintiffs. One such Preferred employee and former employee of a subsidiary of Plaintiffs, Carl Dambrauskas, even began marketing Preferred’s brake shim products by touting his experience

with Plaintiffs and referencing information relating to the customer's current supplier (Nucap), that Preferred could potentially share with the customer. Preferred also hired Thomas Reynolds, a former employee of Plaintiffs with experience in the manufacturing of Plaintiffs' brake parts, namely shims, through a process referred to as "tooling."

Discovery in this case is subject to a two-tiered Protective Order that allows the parties to designate materials as "Confidential" or "Attorneys' Eyes Only." See Protective Order at ¶ 7, attached as Exhibit A. The "Confidential" designation permits access to the parties, counsel, the Court, and associated personnel providing services in the context of this litigation (court staff, experts, or court reporters, for example). Protective Order at ¶ 6. "Confidential" documents are not permitted to be disclosed outside of the context of the litigation or to any persons not specifically identified by the Order. *Id.* The "Attorneys' Eyes Only" designation precludes access to the documents by anyone other than outside counsel and the Court, if appropriate. *Id.* Preferred has designated the vast majority of its production documents as either "Confidential" or "Attorneys Eyes Only." Paragraph 14 of the Protective Order requires that any party wishing to use "Confidential" or "Confidential – Attorneys' Eyes Only" materials in a court filing must file a motion to have such materials sealed. *Id.* at ¶ 14.

Connecticut courts have the authority to seal documents if necessary to preserve a party's interest that is determined to override the public's interest in viewing the document. Practice Book § 11-20A(c) (records can 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."). The "presumption of public access [to documents]... is not absolute." *Rosado v. Bridgeport Roman Catholic Diocesan Corp.*, 292 Conn. 1, 35 (Conn. 2009) (internal citations omitted). "With respect to documents, the presumption of public access never has extended to

every document generated in the course of litigation.” *Id.* at 36. (internal citations omitted). It is well settled that a company’s “interest in protecting the confidentiality of its business practices from competitors necessarily overrides the public’s interest” in accessing the confidential information. *Dominion Nuclear v. Town of Waterford*, 2006 Conn. Super. LEXIS 1486, at *3-*4 (Super. Ct. May 19, 2006) (closing courtroom during recitation of certain deposition testimony and sealing corresponding portion of transcript); *Williams Trading, LLC v. Murphy*, 2011 Conn. Super. LEXIS 2175 (Super. Ct. Aug. 29, 2011) (granting motion to seal arbitration transcripts and exhibits containing confidential proprietary business information).

Here, Exhibit 1 to both the Reply and Opposition is the Supplemental Amended Answers to Preferred First Interrogatories, which Plaintiffs have marked as “Confidential – Attorneys’ Eyes Only” because it contains highly sensitive trade secret and product design information of Plaintiffs. Exhibits 2 to 6 to both the Opposition and Reply are product drawings of either Nucap or Preferred and have been similarly designated as “Confidential – Attorneys’ Eyes Only” or “Confidential” under the Protective Order. Pursuant to Paragraph 14 of the Protective Order, such materials are required to be filed under seal and Plaintiffs file this motion to seal in accordance with the terms of Paragraph 14.

II. CONCLUSION

For the foregoing reasons, Plaintiffs moves that the Court enter an order directing that Plaintiffs’ Reply, Opposition, and Exhibits 1 - 6 to each filing be filed under seal. In accordance with Practice Book Practice Book Sections 7-4B, 7-4C, and 11 -20A, Plaintiffs will lodge an un-redacted version of its Reply, Opposition, all supporting exhibits with the Court, and will simultaneously file a redacted version of its Reply and Opposition on the Court’s public docket.

PLAINTIFFS,
NUCAP INDUSTRIES, INC. and NUCAP US,
INC.

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CERTIFICATION

This is to certify that a copy of the foregoing was mailed, postage prepaid or delivered electronically or non-electronically, on this 3rd day of November, 2016 to all counsel and self-represented parties of record, as follows:

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