

NO. UWY-CV-14-6026552-S

NUCAP INDUSTRIES, INC. <u>et al.</u> ,)	SUPERIOR COURT
)	
Plaintiffs,)	J.D. OF WATERBURY
)	
V.)	
)	
PREFERRED TOOL AND DIE, INC., et al.,)	
)	MARCH 25, 2015
Defendants.)	

**DEFENDANTS' COVER SHEET TO OBJECTIONS AND
RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES**

Pursuant to P.B. 1998 § 13-8(a), Defendants Preferred Tool and Die, Inc. and Preferred Automotive Components, a division of Preferred Tool and Die hereby submit this cover sheet to their objections to Plaintiffs Nucap Industries, Inc. and Nucap US, Inc. December 23, 2014 First Set of Interrogatories. Defendants have objected in whole or in part to Interrogatories 4, 5, 6, 7, 9, 10, 12, 14, 16 and 17. Defendants have responded in whole or in part to Interrogatories 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15.

THE DEFENDANTS
PREFERRED TOOL AND DIE, INC. and
PREFERRED AUTOMOTIVE COMPONENTS
BY THEIR ATTORNEY

/s/ Benjamin J. Lehberger (Juris No. 425026)
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ORDER

The foregoing objections having been heard this ____ day of ____, 2015, it is hereby ordered as follows:

1. Objection to Interrogatory 4 is SUSTAINED/OVERRULED;
2. Objection to Interrogatory 5 is SUSTAINED/OVERRULED;
3. Objection to Interrogatory 6 is SUSTAINED/OVERRULED;
4. Objection to Interrogatory 7 is SUSTAINED/OVERRULED;
5. Objection to Interrogatory 9 is SUSTAINED/OVERRULED;
6. Objection to Interrogatory 10 is SUSTAINED/OVERRULED;
7. Objection to Interrogatory 12 is SUSTAINED/OVERRULED;
8. Objection to Interrogatory 14 is SUSTAINED/OVERRULED;
9. Objection to Interrogatory 16 is SUSTAINED/OVERRULED; and
10. Objection to Interrogatory 17 is SUSTAINED/OVERRULED.

Judge/Assistant Clerk

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing was sent via electronic delivery, pursuant to express written consent, on this 25th day of March, 2015, to all counsel and pro se parties of record, including:

Stephen W. Aronson, Esq.
Nicole H. Najam, Esq.
Robinson & Cole LLP
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/s/ Jessica L. White

Jessica L. White

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.)	MARCH 25, 2015

**DEFENDANTS PREFERRED TOOL AND DIE, INC., AND PREFERRED
AUTOMOTIVE COMPONENTS' RESPONSES AND OBJECTIONS TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES**

Pursuant to Practice Book § 13-8, Defendants Preferred Tool and Die, Inc., and Preferred Automotive Components (a d/b/a of Preferred Tool and Die, Inc.) (collectively “Preferred” or “Defendant”), by and through their attorneys, hereby respond and object to Plaintiffs Nucap Industries, Inc. and Nucap US, Inc.’s (“Nucap” or “Plaintiffs”) First Set of Interrogatories, dated December 23, 2014.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify the person or persons, other than outside counsel, answering or providing information as part of the answers to these Interrogatories, and identify the Interrogatory answers to which each person listed provided information.

RESPONSE TO INTERROGATORY NO. 1:

Michael Fortin and Wayne Fortin provided information as part of the answers to these Interrogatories, including nos. 1-15, and Carl Dambrauskas provided information as part of the answers to these Interrogatories, including no. 6.

INTERROGATORY NO. 2:

Identify each person with knowledge or whom you believe has knowledge of any facts relevant to any of the issues, claims, or defenses in this action, including a detailed description of the facts known or believed to be known by each such person.

RESPONSE TO INTERROGATORY NO. 2:

Individuals at Nucap may have knowledge regarding the allegations in the complaint. Michael Fortin, Wayne Fortin, Carl Dambrauskas, and/or Thomas Reynolds have knowledge regarding the design and manufacture of brake components by Preferred.

INTERROGATORY NO. 3:

Identify each and every email address, telephone number, cellular phone number, and/or other electronic device, computer, or tablet that Bosco, Dambrauskas, Reynolds, Mike Chasse and/or Don Chasse has used at any time to communicate on behalf of Preferred, including but not limited to electronic devices belonging to Preferred.

RESPONSE TO INTERROGATORY NO. 3:

Bosco is not, and has never been, an employee of Preferred and does not have any email address, telephone number, cellular phone number, and/or other electronic device, computer, or tablet provided by Preferred. Dambrauskas has communicated on behalf of Preferred using the email address carl@preferredtool.com (via a computer supplied by Preferred) and the telephone number

203-925-8525, extension 317. Reynolds has communicated on behalf of Preferred using the email address treynolds@preferredtool.com (via a computer supplied by Preferred) and the telephone number 203-925-8525, extension 305. Mike Chasse and/or Don Chasse do not have email addresses provided by Preferred and do not communicate on behalf of Preferred.

INTERROGATORY NO. 4:

Identify all actual or prospective Preferred Customers with whom Preferred has communicated or whom Preferred, or anyone on Preferred's behalf, has contacted, since January 1, 2012, for any sales or other business purpose (whether in person, by phone, by mail, by electronic messaging, etc.), including:

- a. the identity/identities of the actual or prospective Preferred Customer involved;
- b. a description of the circumstances of each such communication or contact (in writing, by telephone, by e-mail, in person, etc.);
- c. the actual and/or approximate date(s) of each such communication or contact;
- d. the identity/identities of all individuals who participated in the communication or contact;
- e. on whose behalf the individual(s) communicated with or contacted the actual or prospective Preferred Customer (i.e., the name of the Preferred related entity on whose behalf the individual(s) was acting);
- f. a detailed description of the substance of any such communication;
- g. a detailed description of the terms of any and all solicitations, sales proposals, or offers to, or transactions, contracts, leases, sales, proposed sale, or other agreements with any and all such Preferred Customers;

h. the gross dollar amount, and net profit obtained or anticipated on account of any transactions, contracts, leases, sales, or other agreements with any and all such Preferred Customers;

i. any commission, incentive, or other compensation promised, received, or anticipated by Bosco, Dambrauskas, Reynolds, Mike Chasse and/or Don Chasse in connection with any such transactions, contracts, leases, sales, or other agreements with any and all such Preferred Customers; and

j. all referrals Preferred has received and/or anticipates receiving as a result of such communication or contact.

RESPONSE TO INTERROGATORY NO. 4:

Preferred objects to this interrogatory as overbroad, unduly burdensome, and not relevant to any claim or defense of any party to the extent it is not limited to customers of automotive brake products. Preferred also objects to this interrogatory as overbroad, unduly burdensome, vague, ambiguous, and not relevant to any claim or defense of any party to the extent it seeks information concerning “referrals Preferred has received and/or anticipates receiving.” Preferred also objects to this request as overbroad and unduly burdensome to the extent it requires details of any and all such communications for which Preferred may not have records or sufficient recollection. Preferred further objects to this interrogatory to the extent that any answer will contain confidential information concerning Preferred’s customers and financials, and a protective order has yet to be issued in this Action. Preferred has provided Plaintiff with a proposed protective order. Preferred will respond once a suitable protective order is entered.

INTERROGATORY NO. 5:

Identify all actual or prospective suppliers of Preferred (and their representatives, employees, or agents) with whom you, or any other person on your behalf or with your assistance, have communicated or whom you, or anyone on your behalf or with your assistance, have contacted, since January 1, 2012, for any sales or other business purpose (whether in person, by phone, by mail, by electronic messaging, etc.), including:

- a. the identity/identities of the actual or prospective supplier involved;
- b. a description of the circumstances of each such communication or contact (in writing, by telephone, by e-mail, in person, etc.);
- c. the actual and/or approximate date(s) of each such communication or contact;
- d. the identity/identities of all individuals who participated in the communication or contact;
- e. on whose behalf you communicated with or contacted the actual or prospective supplier (i.e., the name of the person(s) or company(ies) on whose behalf you were acting);
- f. a detailed description of the substance of any such communication;
- g. a detailed description of the terms of any and all solicitations, sales proposals, or offers to, or transactions, contracts, leases, sales, proposed sale, or other agreements with any and all such suppliers;
- h. the gross dollar amount, and net profit obtained or anticipated by your or your employer on account of any contracts, leases or other sales with/to any such supplier;
- i. any commission, incentive, or other compensation promised, received, or anticipated by you in connection with such contract, lease, sale, proposed sale, or other agreement; and

j. all referrals you or your employer have received or anticipate receiving as a result of such communication or contact.

RESPONSE TO INTERROGATORY NO. 5:

Preferred objects to this interrogatory as overbroad, unduly burdensome, and not relevant to any claim or defense of any party to the extent it is not limited to suppliers for automotive brake products. Preferred also objects to this interrogatory as overbroad, unduly burdensome, vague, ambiguous, and not relevant to any claim or defense of any party to the extent it seeks information concerning “referrals Preferred has received and/or anticipates receiving.” Preferred also objects to this request as overbroad and unduly burdensome to the extent it requires details of any and all such communications for which Preferred may not have records or sufficient recollection. Preferred objects to this interrogatory to the extent that any answer will contain confidential information concerning Preferred’s suppliers and its financials, and a protective order has yet to be issued in this Action. Preferred will respond once a suitable protective order is entered.

INTERROGATORY NO. 6:

Describe in detail the purpose and substance of any communications between any employees or representatives of Preferred and Bosco, at any time after June 1, 2011.

RESPONSE TO INTERROGATORY NO. 6:

Preferred objects to this interrogatory to the extent it seeks information not in its possession, custody, or control. Preferred objects to this interrogatory to the extent that it is overbroad and seeks information not relevant to the claim or defense of any party, and not reasonably calculated to lead to the discovery of admissible information, to the extent it is not

limited to communications concerning brake products. Preferred also objects to this request as overbroad and unduly burdensome to the extent it requires details of any and all such communications for which Preferred may not have records or sufficient recollection. Preferred objects to this request as over broad and seeking information not relevant to any claim or defense of any party to the extent it seeks communications after the expiration of Bosco's non-compete agreement with Plaintiff.

Subject to and without waiving the forgoing objections, Preferred responds as follows:

Preferred did not communicate with Bosco between the June 1, 2011 and the expiration of Bosco's non-compete agreement, with the exception of communications between Dambrauskas and Bosco. Dambrauskas and Bosco have been close personal friends for 37 years and have communicated on a regular basis on a personal level since Dambrauskas began employment at Preferred and beforehand.

INTERROGATORY NO. 7:

Identify the dates of any interviews or employment related meetings between, on the one hand, Bosco, Dambrauskas, Reynolds, Mike Chasse and/or Don Chasse, and, on the other hand, Preferred, and all attendees at any such interviews or employment related meetings.

RESPONSE TO INTERROGATORY NO. 7:

Preferred objects to this interrogatory to the extent that any answer will likely contain confidential information, and a protective order has yet to be issued in this Action. Preferred has provided Plaintiff with a proposed protective order. Preferred objects to this interrogatory to the extent that it is overbroad and seeks information not relevant to the claim or defense of any party, and is not reasonably calculated to lead to the discovery of admissible information.

Subject to and without waiving the forgoing objections, Preferred responds as follows:

Preferred has not had any interviews or employment related meetings with Bosco.

Preferred representatives, including Wayne Fortin, interviewed Dambrauskas at Preferred in Shelton, CT approximately within a month prior to June 25, 2012. Preferred representatives, including Wayne Fortin, interviewed Reynolds at Preferred in Shelton, CT approximately within a month prior to April 9, 2012. Preferred representatives, including Wayne Fortin, interviewed Mike Chasse at Preferred in Shelton, CT approximately within a month prior February 17, 2014. Preferred representatives, including Wayne Fortin, interviewed Don Chasse at Preferred in Shelton, CT approximately within a month prior July 21, 2014.

INTERROGATORY NO. 8:

List in detail all automotive brake components, including but not limited to friction products, shims, brakes, brake pads, caliper hardware and/or related parts and services, offered for sale, marketed, promoted, or sponsored by Preferred at the SAE Brake Colloquium.

RESPONSE TO INTERROGATORY NO. 8:

Preferred promoted automotive brake shims at the 2013 SAE Brake Colloquium, including the shims identified in the Shim Index document produced by Preferred on March 25, 2015.

INTERROGATORY NO. 9:

List in detail all automotive brake components, including but not limited to friction products, shims, brakes, brake pads, caliper hardware and/or related parts and services offered for sale by Preferred from January 1, 2012 to the present.

RESPONSE TO INTERROGATORY NO. 9:

Preferred objects to this interrogatory to the extent that any answer will contain confidential information concerning Preferred's products offering which have not been made public, and a protective order has yet to be issued in this Action. Preferred will respond further once a suitable protective order is entered.

Subject to and without waiving the forgoing objections, Preferred states that, since January 1, 2012, Preferred has offered automotive brake shims and caliper hardware, including the parts identified in the Product Offering 2014 document produced by Preferred on March 25, 2015.

INTERROGATORY NO. 10:

List in detail all automotive brake components, including but not limited to friction products, shims, brakes, brake pads, caliper hardware and/or related parts and services in development by Preferred.

RESPONSE TO INTERROGATORY NO. 10:

Preferred objects to this interrogatory to the extent that any answer will contain confidential information concerning products not yet publically available, and a protective order has yet to be issued in this Action. Preferred has provided Plaintiff with a proposed protective order. Preferred will respond in more detail once a suitable protective order is entered.

Subject to and without waiving the forgoing objections, Preferred states that, beyond brake shims and caliper hardware, no other types of automotive brake components are in development.

INTERROGATORY NO. 11:

Describe in detail the reason why Preferred decided to begin offering for sale automotive brake components, including but not limited to friction products, shims, brakes, brake pads, caliper hardware and/or related parts and services, and identify: the individuals involved in that decision; any business plans or similar documents created in connection with that decision; any meeting minutes or other records reflecting communications regarding the (at the time) prospective sale of automotive brake components (including but not limited to meeting minutes or other records reflecting the decision to create the separate division now known as Preferred Automotive Components); and the first date on which Preferred began offering for sale automotive brake components.

RESPONSE TO INTERROGATORY NO. 11:

Preferred has been in the business of tool design, production stamping, and precision machining for over forty years. Preferred has served a number of different industries including medical, scientific, and aerospace. In or about September 2012, a potential customer requested a quote from Preferred for abutment clips for an automotive application. Around this time, Preferred began evaluating the automotive market as a potential area for increased business and made a business decision to pursue this additional market. Individuals involved in this business decision included Michael Fortin and Wayne Fortin. No meeting minutes or business plans were created. Preferred began offering brake shims in or about March 2013.

INTERROGATORY NO. 12:

List in detail all automotive brake components, including but not limited to friction products, shims, brakes, brake pads, caliper hardware and/or related parts and services, which

have been designed, manufactured, or created by or for Preferred at any time from January 1, 2012 through the present, which Preferred has not yet offered for sale.

RESPONSE TO INTERROGATORY NO. 12:

Preferred objects to this interrogatory to the extent that any answer will contain confidential information concerning future products, and a protective order has yet to be issued in this Action. Preferred has provided Plaintiff with a proposed protective order. Preferred will respond in more detail once a suitable protective order is entered.

Subject to and without waiving the forgoing objections, Preferred states that, since January 1, 2012, Preferred has designed, manufactured, or created automotive brake shims and caliper hardware, including the parts identified in the Product Offering 2014 document produced by preferred on March 25, 2015 with the exception of PAC440, PAC441, PAC442, PAC444, and PAC445.

INTERROGATORY NO. 13:

Identify the employees of Preferred Automotive Components from the inception of that division through the present and, for each such person, describe his or her job duties and when he or she became employed and, where applicable, when such person left the employ of Preferred Automotive Components.

RESPONSE TO INTERROGATORY NO. 13:

Preferred Automotive Components is not a separate entity and does not have any of its own employees separate from Preferred Tool and Die, Inc.

INTERROGATORY NO. 14:

Identify all persons who have been in any way responsible for the conception, design, drawings, engineering plans, development, manufacture, distribution, and/or sale of automotive brake components, including but not limited to friction products, shims, brakes, brake pads, caliper hardware and/or related parts and services, on behalf of Preferred and, for each such person, identify his or her contribution.

RESPONSE TO INTERROGATORY NO. 14:

Preferred objects to this interrogatory to the extent that it is overbroad and seeks information not relevant to the claim or defense of any party, and not reasonably calculated to lead to the discovery of admissible information.

Subject to without waiving the forgoing objections, Preferred states that all employees of Preferred, which includes 35-40 employees, have been responsible in some capacity in the conception, design, drawings, engineering plans, development, manufacture, distribution, and/or sale of automotive brake components.

INTERROGATORY NO. 15:

Identify any business plans, descriptions and/or other communications between Preferred and any lender to Preferred regarding the creation and/or operations of Preferred Automotive Components.

RESPONSE TO INTERROGATORY NO. 15:

No such business plans, descriptions or other communications between Preferred and any lender exist.

INTERROGATORY NO. 16:

Identify all persons who you expect to call as witnesses at trial in this matter and state with specificity the facts and opinions to which each witness will testify.

RESPONSE TO INTERROGATORY NO. 16:

Preferred objects to this interrogatory as premature. This case is in its early stages and Preferred has not taken any discovery or had an opportunity to evaluate the alleged use of trade secrets given that Plaintiff has not identified what trade secret information was allegedly used by Preferred. Preferred will supplement this response as necessary later in discovery.

INTERROGATORY NO. 17:

Identify all persons who you expect to call as an expert witness at trial in this matter and state with specificity the facts and opinions to which each expert witness will testify.

RESPONSE TO INTERROGATORY NO. 17:

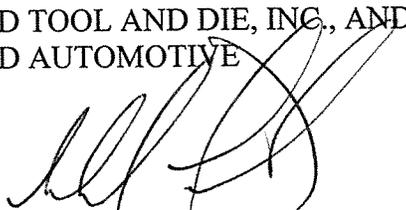
Preferred objects to this interrogatory as premature. This case is in its early stages and Preferred has not taken any discovery or had an opportunity to evaluate the alleged use of trade secrets given that Plaintiff has not identified what trade secret information was allegedly used by Preferred. Preferred will supplement this response as necessary later in discovery.

VERIFICATION

I hereby declare under penalty of perjury that the foregoing is correct to the best of my knowledge and belief.

PREFERRED TOOL AND DIE, INC., AND
PREFERRED AUTOMOTIVE

Date: 3/25/14

By: 
Michael Fortin, President

OBJECTIONS BY:

ST. ONGE STEWARD JOHNSTON & REENS LLC

March 25, 2015
Dated

/s/Benjamin J. Lehberger/425026
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*ATTORNEYS FOR PREFERRED TOOL AND DIE, INC.
AND PREFERRED AUTOMOTIVE*

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2015, a copy of the foregoing DEFENDANTS
PREFERRED TOOL AND DIE, INC., AND PREFERRED AUTOMOTIVE COMPONENTS'
RESPONSES AND OBJECTIONS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES
was served via electronic mail on the following counsel of record:

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03/25/2015
Date

/s/ Jessica L. White
Jessica L. White