

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YOTRIO CORPORATION,
Petitioner

v.

LAKESOUTH HOLDINGS, LLC,
Patent Owner.

U.S. Patent No. 6,612,713
Title: Umbrella Apparatus

Case No. IPR2017-00298

**PATENT OWNER LAKESOUTH HOLDINGS, LLC'S UNOPPOSED
MOTION TO SEAL AND MOTION FOR PROTECTIVE ORDER**

Pursuant to 37 C.F.R. § 42.54, Patent Owner LakeSouth Holdings, LLC (“LakeSouth”) respectfully moves to file an Exhibit with its Preliminary Response under seal. As detailed below, the Exhibit contains highly confidential and extremely sensitive information regarding financial matters pertaining to LakeSouth’s business and also contains summaries of confidential license agreements between LakeSouth and third parties. Further, as set forth below, LakeSouth also respectfully requests entry of the Default Protective Order.

Counsel for LakeSouth contacted Counsel for Petitioners and requested Petitioners’ consent to file material under seal and for consent to abide by the Default Protective Order in this case. Petitioner agreed to both requests.

I. GOOD CAUSE EXISTS FOR SEALING CONFIDENTIAL INFORMATION

The Office Patent Trial Practice Guide provides that “the rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012). Further, those rules “identify confidential information in a manner consistent with the Federal Rules of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54).

Here, LakeSouth seeks to seal from public view two limited classes of confidential information. First, LakeSouth seeks protection of information related to license agreements entered into between LakeSouth and third parties. These licenses are summarized in Exhibit 2001 to LakeSouth's Preliminary Response, the Declaration of John S. Kuelbs. LakeSouth is not at this time (*i.e.*, at the Preliminary Response phase of the case) seeking to file the actual license agreements under seal; rather, LakeSouth is providing summaries of certain terms from the agreements. LakeSouth believes this is the most efficient way at this point to provide relevant information to the Board while keeping as little information as possible from public view. For example, LakeSouth will file as Exhibit 2002 a version of Exhibit 2001 with minimal redactions (*e.g.*, party names, execution dates, royalty terms). LakeSouth has provided copies of the actual license agreements to Petitioners' counsel in the co-pending litigation under a HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY designation under the Protective Order in that case.

Additionally, Exhibit 2001 discloses information about sales and revenue for LakeSouth products covered by one or more claims of the patents at issue. LakeSouth is a privately held company, and its financial information is extremely sensitive. The underlying source data has not yet been provided in the co-pending litigation due to a staggered production schedule entered in that case.

LakeSouth understands and acknowledges that material described above and relied upon in any decision regarding patentability may become part of the public record. Additionally, Petitioners' ability to raise its claims or defenses will not be impacted by filing the above Exhibit 2001 under seal, as Petitioners' in-house and outside counsel will have access to the sealed versions under the Default Protective Order.

As stated above, LakeSouth has conferred with Petitioners and reached agreement on LakeSouth's request to seal and on entry of the Default Protective Order.

II. CERTIFICATION OF NON-PUBLICATION

On behalf of LakeSouth, the undersigned counsel certifies that the information identified in the exhibits and sought to be sealed has not, to his knowledge, been published or otherwise made public.

III. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTIES PURSUANT TO 37 C.F.R. § 42.54

LakeSouth has in good faith conferred with Petitioners and reached an agreement on the relief sought herein, including the entry of the Default Protective Order.

IPR2017-00298

U.S. Patent No. 6,612,713

Date: February 28, 2017

Respectfully Submitted,

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