

UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.

In the Matter of:

**CERTAIN COMPOSITE AEROGEL
INSULATION MATERIALS AND
METHODS FOR MANUFACTURING
THE SAME**

Investigation No. 337-TA-1003

**ORDER NO. 10: GRANTING IN PART AND DENYING IN PART
RESPONDENT GUANGDONG ALISON HI-TECH CO.,
LTD.'S MOTION OBJECTING TO DISCLOSURE OF ITS
CONFIDENTIAL BUSINESS INFORMATION TO DRs.
ANDERSON AND SCHIRALDI**

(August 18, 2016)

This Order memorializes and summarizes orders that were issued during a telephone conference (“Teleconference”) that was held with all parties on August 11, 2016 in order to resolve a discovery dispute.

On July 20, 2016, Respondent Guangdong Alison Hi-Tech Co., Ltd. (“Respondent Alison”) filed a motion in which it objected to the disclosure of its confidential business information (“CBI”) to Complainant Aspen Aerogels, Inc.’s (“Complainant”) proposed experts, Dr. Ann M. Anderson and Dr. David A. Schiraldi (“Motion”). (Doc. ID No. 586273; Mot. at 1.). On July 27, 2016, Complainant filed a response to Respondent Alison’s motion (“Response”) in which Complainant explained why it should be permitted its choice of experts, and in which it rebutted Respondent Alison’s rationale for denying Drs. Anderson and Schiraldi access to Respondent Alison’s CBI. (Doc. ID No. 586722.). Respondent Nano Tech Co., Ltd. (“Respondent Nano”) initially objected to having its CBI disclosed to Drs. Anderson and Schiraldi but then withdrew its objections. (*See, e.g.*, Doc. ID No. 586722 at 9 n.2.).

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Commission Investigative Staff (“Staff”) initially did not take a position in writing to Respondent Alison’s motion, but then asserted a position during the August 11, 2016 Teleconference. (Teleconference Tr. at 28:20-25, 41:5-9 (Aug. 11, 2016)).

The August 11, 2016 Teleconference was held to: (1) enable Respondent Alison and Complainant to clarify their arguments and information contained in their respective briefs; and (2) offer supplemental arguments as necessary. All parties were represented during the Teleconference.

In determining whether, to whom, and under what circumstances to release confidential information, the Commission balances several factors including “the party’s need for the confidential information sought in order to adequately prepare its case, the harm that the disclosure would cause the party submitting the information, and the forum’s interest in maintaining the confidentiality of the information sought.” *Akzo N.V. v. U.S. Int’l Trade Comm’n*, 808 F.2d 1471, 1484 (Fed. Cir. 1986).

After hearing and considering all the parties’ arguments, Respondent Alison’s objections to the disclosure of its CBI to Dr. David A. Schiraldi were determined to lack legal and factual substance. Accordingly, Respondent’s motion that Dr. Schiraldi be denied access to Respondent Alison’s CBI was ***denied***. See *Certain Crawler Cranes and Components Thereof*, Inv. No. 337-TA-887, Order No. 11 at 3 (Dec. 18, 2013) (objection improper where investigation involved “crawler cranes” but expert’s former employer made and sold “rough terrain cranes” and expert had agreed to be bound by the protective order)). However, Respondent Alison’s objections to the disclosure of its CBI to Dr. Ann M. Anderson were considered to have merit. Therefore, Respondent Alison’s motion that Dr. Anderson be denied access to its CBI was ***granted***. Consequently, Complainant may not use Dr. Anderson as one of its experts at least in this

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Investigation. *See Symantec Corp. v. Acronis Corp.*, 2012 WL 3582974, at *3 (N.D. Cal. Aug. 20, 2012) (denying disclosure of confidential information because of proposed consultant's ongoing work in the relevant subjection area)).

A transcript of the Teleconference was made. Within seven (7) business days of the date of this document, each party shall submit to the Office of the Administrative Law Judges a statement as to whether or not¹ it seeks to have any confidential portion of this document deleted from the public version. Any party seeking redactions to the public version must submit to this office two (2) copies of a proposed public version of this document pursuant to Ground Rule 1.11 with red brackets clearly indicating any portion asserted to contain confidential business information.

The parties' submissions may be made by facsimile and/or hard copy by the aforementioned date. In addition, an electronic courtesy copy is required pursuant to Ground Rule 1.3.2. The parties' submissions concerning the public version of this document need not be filed with the Commission Secretary.

A public version of this document will be made available once CBI redactions submitted by the parties have been considered and made.

SO ORDERED.



MaryJoan McNamara
Administrative Law Judge

¹ This means that parties that do not seek to have any portion redacted are still required to submit a statement to this effect.

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PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served by hand upon the Commission Investigative Attorney, Yoncha Kundupoglu, Esq., and upon the following parties as indicated on August 23, 2016.



Lisa R. Barton, Secretary
U.S. International Trade Commission
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On Behalf of Complainant Aspen Aerogels, Inc.

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