

EXHIBIT 1 - REQUEST FOR CONFIDENTIALITY

Federal Communications Commission
Laboratory Division
7435 Oakland Mills Road
Columbia MD 21046

Date: May 23, 2013
Subject: Request for Confidentiality
FCC File No: 0363-EX-PL-2013

To Whom It May Concern:

Rearden LLC (“Rearden”), pursuant to 5 U.S.C. § 552 and Sections 0.457 and 0.459 of the Commission's Rules, 47 C.F.R. §§ 0.457, 0.459, hereby requests that certain information contained in its application for Experimental Radio Service (“ERS”) authority be treated as confidential and not subject to public inspection. The designated information constitutes confidential and proprietary information that, if subject to public disclosure, would cause significant commercial, economic, and competitive harm. As described below, Rearden’s request satisfies the standards for grant of such requests set forth in Sections 0.457 and 0.459 of the Commission’s Rules.

In accordance with Section 0.459(b) and in support of this request, Applicant provides the following information:

1. Identification of the Information For Which Confidential Treatment is Sought.

Applicant seeks confidential treatment for the following exhibits:

- Exhibit 1 - Request for Confidentiality
- Exhibit 2 - Description of Experiment
- Exhibit 3 - Technical Information
- Exhibit 4 - Spectrum Use Document

2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission.

The above-referenced Exhibits were submitted to the Commission in support of a Form 442 Application for Experimental Radio Service. These Exhibits were filed with the Office of Engineering and Technology on May 23. For additional information, please see File No.0363-EX-PL-2013.

EXHIBIT 1 - REQUEST FOR CONFIDENTIALITY

3. Explanation of the degree to which the information is commercial, or financial or contains a trade secret or is privileged.

The information requested to be kept confidential has significant commercial value. The details of the experiments may include trade secret information. The Commission has recognized that a trade secret is a “a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.”¹ Rearden’s experiments and proprietary wireless applications using particular radio frequency equipment represent a “secret commercially valuable plan” within the meaning of this definition.

4. Explanation of the degree to which the information concerns a service that is competitive.

The services and technologies that are the subject of this application for ERS authority have not yet been fully developed but are expected to lead to material developments in markets subject to fierce competition from multiple U.S. and non-U.S. third parties who are exploring comparable services and technology. Compelling innovations in wireless technologies and services are highly sought after and represent significant value to Rearden.

5. Explanation of how disclosure of the information could result in substantial competitive harm.

Disclosure of this information to the public would result in significant competitive harm to Rearden. The technology under development and timeline for the experiment are highly sensitive and confidential information that provide valuable insight into technology innovations and potential business plans and strategies. Such information could be used by competitors to inhibit vendor relationships and ultimately business expansion efforts. Further, disclosure of this information could result in a breach of confidentiality obligations to certain existing vendors. Moreover, public disclosure will jeopardize the value of the technologically innovative products under examination by enabling others to utilize Rearden’s testing information to develop similar products in a similar timeframe.

6. Identification of any measures taken by the requesting party to prevent unauthorized disclosure.

Rearden has taken steps to keep confidential the information contained in the FCC Form 442 and set forth in Confidential Exhibits 1-4 as well as Rearden’s efforts to prepare this experiment and explore the related product market by limiting the number of people involved in the experiment to only those on a “need to know” basis, by requiring that all third parties involved in the preliminary analysis execute robust nondisclosure agreements, and by limiting other external contacts to privileged and confidential communications.

7. Identification of whether the information is available to the public and the extent of any previous disclosures of the information to any third parties.

¹ Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, Report and Order, GC Docket No. 96-55, at para. 3, (released August 4, 1998) (defining “trade secrets” for purpose of Commission rules on confidential treatment).

EXHIBIT 1 - REQUEST FOR CONFIDENTIALITY

The information contained in Exhibits 1-4 is not available to the public, and has only been disclosed to third parties pursuant to the restrictive safeguards described above.

8. Justification of the requested period of confidentiality

Rearden expects that confidential treatment is necessary for the length of the proposed experiment in order to protect its evolving business and technology strategies.

9. Any other information that would be useful in assessing whether this request should be submitted.

The information subject to this request for confidentiality should not be made available for public disclosure at any time. There is nothing material that public review of this information would add to the Commission's analysis of Rearden's request for an experimental authorization. Experimental licenses are not subject to the mandatory 30-day Public Notice requirements of Section 309 of the Communications Act, 47 U.S. C. § 309(b). Further, ERS authorizations do not grant permanent rights to operate and do not permit the provision of commercial services to customers. See 47 C.F.R. § 5.3 (describing limited scope of permissible experimental services.)

Moreover, public disclosure of the sensitive information in Confidential Exhibits 1-4 of this application for ERS authority request *after* the Commission has ruled on the Request for Confidentiality is not necessary for the Commission to fulfill its regulatory responsibilities. By the terms of the Commission's Rules, all experimental licenses are nonexclusive and subject to the requirement that harmful interference may not be caused to any station operating in accordance with the Commission's Table of Allocations, 47 C.F.R. § 5.85(b) and (c), and that operations must cease in the event interference is detected. 47 C.F.R. § 5.117. As detailed in the Exhibits being filed concurrently herewith, there is virtually no risk of harmful interference to any other spectrum user, and the licensee for the frequencies under test has expressly consented to Rearden's proposed experiments.

Rearden submits that a grant of confidential treatment as requested would promote further innovation in radiofrequency technologies and would thereby serve the public interest.

/s/

Dr. Antonio Forenza
Principal Scientist
Rearden LLC