12/17/2009

Confidentiality Procedures Detail

Any request for confidentiality should reference Section 0.457(d) and 0.459 of the FCC Rules; contain a reason why the material should be withheld from public inspection; identify the specific information by exhibit type, name, and description; state whether this information is publicly available elsewhere; and explain why the information is a "trade secret." "Trade secret" information is information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors. The information is not normally released to any party or person outside the company.

After confidentiality is approved either by the FCC or by a TCB acting on behalf of the FCC, the information will be held confidential as long as the FCC retains the information in accordance with the FCC Records Retention schedule, or until a request for inspection is filed and approved per Section 0.461.

Files that are marked confidential are not viewable on the FCC equipment authorization Web site. Files that are not marked confidential are viewable on the equipment authorization Web site after a grant is issued. During the time an application is pending, the names of confidential files are only viewable using the "Pending Application Status" Report. This Report requires an FCC Form 731 Confirmation Number and an FCC ID to prevent pending application information from being viewed by unauthorized individuals. After an application is granted information submitted and associated with the application is available for viewing through both the "Pending Application Status" (with the Confirmation Number and the FCC ID) and "Authorization Search." The result set of each of these searches includes a "Detail" option that provides the ability to view all non-confidential exhibits and a "Summary" option that provides a list of all uploaded exhibits (both confidential and non-confidential). None of the exhibits are viewable through the "Summary" option.

Long-Term Confidentiality

Certain Exhibit types are always held confidential including Software Defined Radio / Cognitive radio attachments that describe the software and security information required by Section 2.944 and submitted into the SDR Software / Security Info Exhibit type. In addition, scanning receiver information included in the below exhibit attachments noted as "commonly held confidential" and also scanning receiver internal photos are always held confidential (see Section 0.457(d)(1)(ii).) Neither a letter requesting confidentiality nor a separate fee for these exhibits is required.

Exhibit types that are commonly held confidential are: (1) Schematics, (2) Block Diagrams, (3) Operational Descriptions, (4) Parts List / Tune UP Info.

Internal Photos and Users Manual exhibits, while not typically held confidential, may be eligible for confidentiality in certain circumstances. A request for such confidentiality is not considered routine; therefore, additional justification must be provided. For example, internal photos of a consumer device may be held confidential when the circuit board is enclosed in epoxy or in a material that would destroy the circuit board if removed; internal photos of a consumer device may be held confidential if the device is sealed and disassembly would destroy the product; internal photos may be held confidential if a non-consumer device is inaccessible to the general public, such as a device mounted on the top of a large tower (or in a fenced enclosure) that is only serviceable by the licensee or the designated technicians; and a user's manual may be held confidential when the manual is very technical and is not provided to the consumer because the consumer cannot service the device.

A request for confidentiality that is not routine must be submitted to the FCC. A TCB may grant authorization for a device when a nonroutine confidentiality request is made only after consultation with the FCC through a Knowledge Data Base (KDB) Permit But Ask (PBA) inquiry.

Exhibit types that are not eligible for Long-Term Confidential treatment are: (1) Test Reports, (2) RF Exposure Info, (3) External Photos, (4) ID Labels / Location Info, (5) Attestation Statements, (6) Cover Letter(s), and (7) Test Setup Photos.

Block diagrams of personal computers (PCs), PC peripherals, and other unintentional radiators are not required to be detailed and are not granted confidentiality unless they contain more than the basic operating frequencies required by the FCC Rules.

Third-Party Long-Term Confidentiality

In some cases, the applicant or the applicant's agent is not authorized to see the schematics or other proprietary information for a specific portion of a device which is an integral part of the product, but is a "trade secret" of another company. In these cases, a third party may request and be granted confidentiality for such information. For example, if Company A provides the transmitter board of Company B's product, Company A may request and be granted confidentiality for the schematic diagrams, detailed block diagrams and operational description of the transmitter without Company B or Company B's agent seeing these exhibits. For FCC filed applications, the third party can submit the request and confidential exhibits if the third party is given the FCC ID and FCC Form 731 Confirmation Number (EA #) by the applicant or his agent. The third party must be listed as a contact in the FCC filed application.

For TCB filed applications, the third party is prevented from submitting information because they would not have access to the TCB password. In these cases, the TCB must work out an agreement with the third party that allows the TCB to file this information instead of the third party.

Short-Term Confidentiality

The Form 731 "Short-Term Confidentiality" option is intended to provide applicants the ability to receive an equipment approval and get a product to market while ensuring that business sensitive information remains confidential until the actual marketing of the device. When marketing begins, the information must be released for viewing on the FCC equipment authorization Web site.

Short-Term Confidentiality cannot be applied to only a single model number within a filing containing multiple model numbers under one FCC ID. When marketing begins, all exhibits marked short term confidential associated with a specific FCC ID (regardless of model number(s)) should be released.

Exhibits eligible for Short-Term Confidentiality include all exhibits eligible for Long-Term Confidentiality and in addition (1) External Photos, (2) Test Setup Photos, (3) Internal Photos, and (4) Users Manuals.

Post-Grant Confidentiality

Post-Grant Confidentiality is a request for confidentiality for material already released and made available to the public, and is not generally recommended. Justification and a declaration from the Applicant / Grantee of awareness that information has been publicly available since the date of grant are required.