

May 1, 2020

VIA ELECTRONIC FILING

Experimental Licensing Branch
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**Re: Amberwell LLC – Request for Confidential Treatment
OET File No. 0370-EX-CN-2020**

To Whom It May Concern:

Amberwell LLC (“Amberwell”), pursuant to 5 U.S.C. § 552 and 47 C.F.R. §§ 0.457, 0.459, hereby requests that certain information in and attachments to the above-referenced application for an experimental license be treated as confidential and not subject to public inspection.¹

The information for which confidentiality is sought contains confidential and commercially sensitive information that would cause significant economic and competitive harm if publicly disclosed.

Exemption 4 of the Freedom of Information Act allows entities to withhold from public information “trade secrets and commercial or financial information obtained from a person and privileged or confidential.”² Section 0.457(d)(2) of the Commission’s rules allows persons submitting materials that they wish to be withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure, pursuant to Section 0.459.³ As demonstrated herein, the specific information for which Amberwell seeks confidential treatment—identified in Item 1 below (“Confidential Information”)—contains confidential and commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act.⁴

In accordance with the requirements contained in Section 0.459(b) for such requests, Amberwell submits the following information in support of its request for confidential treatment:

¹ Amberwell does not seek confidential treatment of frequency information contained in the Form 442 or the Stop Buzzer contact information.

² 5 U.S.C. §552(b)(4).

³ 47 C.F.R. § 0.459.

⁴ 5 U.S.C. §552(b)(4); 47 C.F.R. § 0.457(d).

1. Identification of the specific information for which confidential treatment is sought:

Amberwell seeks confidential treatment of the following Confidential Information:

- a) the content of the Experimental Operations Description,
- b) the list of transmitting equipment (under “Manufacturer” in Form 442),⁵
- c) the antenna orientation and width of beam (under “Station Location” in Form 442),⁶ and
- d) the modulating signal information (under “Modulating signal” for each frequency range in Form 442).⁷

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

Amberwell is submitting this information as part of an application for an experimental license, OET File No. 0370-EX-CN-2020.

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

The Confidential Information contains information of significant commercial value, and the tests and experimental operations described therein include trade secrets.⁸ The innovative equipment, services, and technologies described by Amberwell in the Experimental Operations Description and Form 442 could be used by its competitors to its disadvantage.

4. Explanation of the degree to which the information concerns a service that is subject to competition:

The equipment, services, and technologies that are the subject of the instant application are in the early stages of their development. Amberwell anticipates that the continued development of these equipment, services, and technologies will result in innovative offerings that will become an integral part of a highly competitive market for antenna technologies and wireless connectivity.

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

Information concerning Amberwell's equipment, services, and technologies is proprietary and commercially sensitive. If the Confidential Information were publicly disclosed, Amberwell's

⁵ In the Form 442, Amberwell has redacted the manufacturer names and model numbers of its equipment. Such information is disclosed in the Experimental Operations Description.

⁶ In the Form 442, Amberwell has omitted this information. Such information is disclosed in the Experimental Operations Description above the image on page 2.

⁷ In the Form 442, Amberwell has omitted this information. Such information is disclosed in the second paragraph Experimental Operations Description, above the list of frequency ranges.

⁸ See, e.g., *In the Matter of Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, Report and Order, 13 FCC Rcd 24816, 24818, ¶ 3 (1998) (explaining that “[i]n the context of the FOIA, a trade secret is defined as ‘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.’”).

competitors could use the information to undermine Amberwell's market position. Public release of this information would jeopardize Amberwell's long-term business plans and enable its competitors to unfairly appropriate Amberwell's innovative network architecture to develop its own wireless technologies and network architectures.

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

Amberwell closely guards access to ensure the Confidential Information is not publicly disclosed. The Confidential Information is not distributed, circulated, or provided to any party outside of Amberwell without executing a Non-Disclosure Agreement with Amberwell. The company treats this data as sensitive information; thus only specialized personnel within the company have access to it and only on a need to know basis.

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

Amberwell has not publicly disclosed the Confidential Information. All parties outside of Amberwell that have access to this information obtained such information only after executing a Non-Disclosure Agreement with Amberwell.

8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

Amberwell respectfully requests that the Confidential Information should remain subject to confidential treatment permanently. Even historical information could be used by Amberwell's competitors to track business decisions, business plans, and business relationships. This information could be used by Amberwell's competitors to its detriment.

9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

The public interest would not be served by making the Confidential Information publicly available. The nature of the experimentation being conducted by Amberwell is highly innovative and of significant value to other companies. Public disclosure would put Amberwell at a significant competitive disadvantage if it were made public.

Please contact the undersigned should you have any questions concerning this filing.

Sincerely,

/s/ Tony Lin

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