



ajohnston@telecomlawpros.com
202-552-5121

September 30, 2019

REQUEST FOR CONFIDENTIAL TREATMENT

FILED ELECTRONICALLY

Anthony Serafini
Chief, Experimental Licensing Branch
Office of Engineering and Technology
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: American Tower Indoor DAS LLC Application for Experimental License

Dear Mr. Serafini:

American Tower Indoor DAS LLC (“ATID”), by counsel, hereby requests that the information contained in the Attachment to ATID’s application for experimental license filed contemporaneously with this request (File No. 0823-EX-CN-2019) be held in confidence and not made available for public inspection, pursuant to Section 0.459 of the Commission’s rules. *See* 47 C.F.R. § 0.459. As detailed herein, confidential treatment is appropriate under Exemption 4 of the Freedom of Information Act (“FOIA”), which applies to information constituting “trade secrets and commercial ... information” that “would not customarily be released to the public.” *See* 5 U.S.C. § 552(b)(4), 47 C.F.R. § 0.457(d).

In support of this request, ATID provides the following information, as required under Section 0.459(b) of the Commission’s rules.

1. *Specific Information for Which Confidential Treatment Is Sought – § 0.459(b)(1):* ATID seeks confidential treatment for the information set forth in the Attachment to its application, which includes a description of the experimental plan that is proprietary to ATID and is subject to a non-disclosure agreement between ATID and the manufacturer of the small cell radio access equipment to be utilized in the experiment.

2. *Circumstances Giving Rise to the Submission – § 0.459(b)(2):* The proprietary information submitted to the FCC is required in connection with ATID’s application for an FCC experimental license under Part 5 of the FCC’s rules. *See* 47 C.F.R. § 5.1 *et seq.*



3. *Degree to Which the Information Is Commercial or Financial, or Contains a Trade Secret or Is Privileged – § 0.459(b)(3):* The information for which ATID is requesting confidential treatment contains commercially sensitive information “which would customarily be guarded from competitors.” See, e.g., *James A. Kay, Jr.*, 17 FCC Rcd 1834 (2002) (withholding such information from public inspection). This information includes, but is not limited to, details of the testing methodology to be employed by ATID. Disclosure of this information to competitors would be competitively harmful. Accordingly, public disclosure of the confidential terms of these documents could materially impair ATID’s business.

4. *Degree to Which the Information Concerns a Service That Is Subject to Competition – § 0.459(b)(4):* As the Commission is aware, there is substantial competition in the wireless industry among both facilities providers, such as ATID, and equipment manufacturers in the emerging field that is the subject of the application. Because new and innovative equipment and services are just now being tested for near-term launch, competition among equipment vendors and service providers is particularly keen at this time, and service providers and equipment manufacturers alike have a strong interest in protecting from disclosure proprietary information concerning their potential future products and service offerings.

5. *How Disclosure of the Information Could Result in Substantial Competitive Harm – § 0.459(b)(5):* Information about ATID’s proposed experimental program could be misused by current and potential competitors to gain commercially exploitable knowledge, thereby allowing them to reap unfair advantages in formulating their own plans for technical development of competing equipment and/or systems. This is a particularly critical time for a company that is pursuing product development to protect its plans from disclosure to third parties. Release of the details of this experimental program to potential competitors would allow others to benefit from plans and information that ATID has spent considerable time and money developing, and to adapt their own plans based on this proprietary information.

6. *Measures Taken by the Applicant to Prevent Unauthorized Disclosure – § 0.459(b)(6):* ATID has agreed to limitations on the use and sharing of proprietary information pursuant to a non-disclosure agreement with the manufacturer. Information included in the Attachment falls within the category of confidential information under this agreement. ATID has strictly limited access to the information solely to those employees, contractors, and agents who require knowledge of the tests described in this experimental license application in order to perform their duties and fulfill ATID’s contractual obligations.

7. *The Information Submitted Is Not Available to the Public and Has Not Previously Been Disclosed to Third Parties, Except for Appropriately Limited Circumstances – § 0.459(b)(7):* Disclosure has been limited to employees, counsel, contractors, and agents of ATID who have a specific need to review and analyze proprietary technical information relating to the proposed experimental testing.

8. *Period During Which the Submitted Material Should Not Be Available for Public Disclosure – § 0.459(b)(8):* ATID respectfully requests confidential treatment indefinitely. At the present time, there is no time horizon within the information will become significantly less sensitive, and there is no temporal limitation on ATID’s non-disclosure obligations. Accordingly, ATID requests that the Commission maintain confidential treatment of the material at least until it expressly notifies the Commission that confidential treatment is no longer required or necessary.



For all of the foregoing reasons, ATID requests that the Commission withhold the Attachment to ATID's experimental license application from public inspection, according it full confidential treatment. In the event that a request for examination of this document is filed, ATID requests an opportunity to respond and to provide a partially redacted version in lieu of full disclosure.

Respectfully submitted,

/s/ E. Ashton Johnston

E. Ashton Johnston
Counsel to American Tower Indoor DAS LLC