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ATS PRODUCTS, INC. and
6 all Counter-Defendants

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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NORTHERN CALIFORNIA – SAN FRANCISCO DIVISION**
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11 ATS PRODUCTS, INC.,]

12 Plaintiff,]

13 v.]

14 FRANK GHIORSO; THERMALGUARD]
15 TECHNOLOGY, LLC; THERMALGUARD,]
16 LLC,]

17 Defendants.]

18 AND RELATED COUNTER-CLAIM.]
19

Case No. CV10-04880 BZ

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
PROTECTIVE ORDER DURING
TRIAL**

Dept: Courtroom C, 15th Floor
Judge: Hon. Bernard Zimmerman

Trial Date: November 28, 2011
Time: 8:30 a.m.

20 Plaintiff's Motion for a Protective Order During Trial, filed November 22, 2011 as
21 Docket Nos. 208 through 208-4, was considered by the Court, the Honorable Bernard
22 Zimmerman, United States Magistrate Judge, presiding, on November 28, 2011, after the jury
23 was impaneled and opening statements made, but before evidence was opened before the jury.
24 Plaintiff and counter-defendants appeared by and through Marc L. Shea. Defendant and Counter-
25 claimant appeared by and through Bruce Prescott. The Court conducted a hearing outside the
26 presence of the jury (Reporter's Transcript, pp. 160 -215). Having reviewed the papers
27 submitted by the parties, received testimony, and considered the arguments of Counsel, and for
28 good cause shown, the Court entered orders on the record, which are summarized below,

1 effective as of November 28, 2011:

2 1. The Court finds the information claimed by the Plaintiff to be trade secret is
3 worthy of protection during trial. There is a very minimal public interest in the information
4 claimed to be trade secret. The information concerns a private dispute between the parties, and
5 the information would not be of interest to members of the public generally, other than to
6 competitors of plaintiff ATS Products, Inc. and of defendants.

7 2. The Court finds the information sought to be sealed may contain trade secret
8 information. Plaintiff has made preliminary showings that: it makes efforts to maintain the
9 confidentiality of the information; the information is not readily available to the public, and much
10 of it is not available at all; the information is not generally known in the industry; and if the
11 information were to become public it would enable potential competitors to step in and make the
12 products that Plaintiff believes only it now makes. Furthermore, the Court finds there is no
13 overriding public interest in the information sought to be placed under seal.

14 3. The Court finds that the Plaintiff has met its burden of showing that a
15 particularized harm may result from disclosure of this information to the public. In balancing the
16 public and private interests, the Court doesn't find there is any overriding public interest in the
17 disclosure of this sort of proprietary information.

18 4. The jury was admonished at the outset of trial and will be admonished at the end
19 of trial that if they find certain information to be trade secret they are to keep that information
20 confidential.

21 5. If a member of the public enters the courtroom during trial and alleged trade secret
22 information is being discussed or is currently on the projection screen, the courtroom will be
23 placed under seal and they will be asked to leave and the trial will proceed under seal. If a
24 member of the public enters the courtroom and alleged trade secret information is not being
25 discussed or being placed on the projection screen then the individual may remain in the
26 courtroom until such time that said information is discussed or displayed.

27 6. The trial transcripts will remain under seal until such time after trial that certain
28 information may be ordered unsealed. Until further ordered by the Court, the reporter will not

1 publish the transcript online or otherwise disclose it to anyone but the litigants, counsel, the
2 Court, and court staff.

3 7. The trial exhibits entered into evidence at trial will be placed under seal until such
4 time after trial that certain exhibits may be ordered unsealed.

5 8. Counsel and the parties are ordered to inform the Court when a member of the
6 public enters the courtroom and request the Court to seal the courtroom if alleged trade secret
7 information is being discussed at the time in question.

8 9. The Clerk shall maintain a copy of this order with the trial exhibits and trial
9 transcripts.

10 10. Counsel, the parties, and court staff are ordered to act consistently with the
11 Court's findings.

12 **IT IS SO ORDERED.**

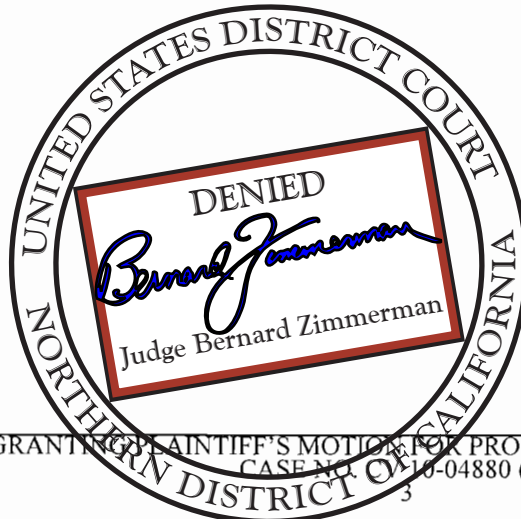
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15 HON. BERNARD ZIMMERMAN
United States Magistrate Judge

16 Read and Approved:

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19 Bruce Prescott, Esq., Attorney for
Defendants and Counter-claimant

Denied as moot
Bernard Zimmerman

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22 Y:\a\ATS v Ghiorso\Pldg\Protective order after hearing\Prop Protective Order r1.wpd



DATED: 4/5/2012