

1 Jordan S. Stanzler (SBN 54620)
 2 Jeffrey M. Curtiss (SBN 239199)
 3 STANZLER LAW GROUP
 4 2275 E. Bayshore Rd., Ste. 100
 5 Palo Alto, California 94303
 6 Telephone: (650) 739-0200
 7 Facsimile: (650) 739-0916

8 Attorneys for Plaintiffs
 9 Tyco Thermal Controls LLC

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

12 TYCO THERMAL CONTROLS LLC,

13 Plaintiff,

14 v.

15 REDWOOD INDUSTRIALS, et al.,

16 Defendants.

17 AND RELATED COUNTER-CLAIMS
 18

Case No. C-06-07164 JF/PG
 Related Case No. CV-10-1606

STIPULATED PROTECTIVE ORDER

Filed: November 17, 2006
 Trial Date: October 31, 2011

Judge: Hon. Jeremy Fogel

Mag. Judge: Paul Singh Grewal

19 TYCO THERMAL CONTROLS LLC ("Plaintiff") and ROWE
 20 INDUSTRIES, INC. ("Rowe", and, collectively, the "Parties") hereby submit this
 21 Stipulated Protected Order.

22 1. PURPOSES AND LIMITATIONS

23 Disclosure and discovery activity in this action are likely to involve
 24 production of confidential, proprietary, or private information for which special
 25 protection from public disclosure and from use for any purpose other than
 26 prosecuting this litigation would be warranted. Accordingly, the parties hereby
 27 stipulate to and petition the court to enter the following Stipulated Protective
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1 Order. The Parties acknowledge that this Order does not confer blanket
2 protections on all disclosures or responses to discovery and that the protection it
3 affords extends only to the limited information or items that are entitled under the
4 applicable legal principles to treatment as confidential. The Parties further
5 acknowledge, as set forth in Section 10, below, that this Stipulated Protective
6 Order creates no entitlement to file confidential information under seal; Civil
7 Local Rule 79-5 sets forth the procedures that must be followed and reflects the
8 standards that will be applied when a party seeks permission from the court to file
9 material under seal.

10 2. DEFINITIONS

11 _____ 2.1 Party: any party to this action, including any of its officers,
12 directors, employees, consultants, retained experts, and outside counsel (and their
13 support staff).

14 2.2 Disclosure or Discovery Material: all items or information,
15 regardless of the medium or manner generated, stored or maintained (including,
16 among other things, testimony, transcripts, documents or tangible things) that are
17 produced or generated in disclosures or responses to discovery in this matter.

18 2.3 Confidential Information or Items: information (regardless of
19 how generated, stored or maintained) or tangible things that qualify for protection
20 under standards developed under F.R.Civ.P.26(c).

21 2.4 "Highly Confidential- Attorneys' Eyes Only" Information or
22 Items: extremely sensitive Confidential Information or Items whose disclosure to
23 another Party or nonparty would create a substantial risk of serious injury that
24 could not be avoided by less restrictive means.

25 2.5 Receiving Party: a Party that receives Disclosure or Discovery
26 Material from a Producing Party.

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1 2.6 Producing Party: a Party or non-party that produces Disclosure
2 or Discovery Material in this action.

3 2.7. Designating Party: a Party or non-party that designates
4 information or items that it produces in disclosures or in responses to discovery as
5 "Confidential" or "Highly Confidential - Attorneys' Eyes Only."

6 2.8 Protected Material: any Disclosure or Discovery Material that
7 is designated as "Confidential" or as "Highly Confidential - Attorneys' Eyes
8 Only."

9 2.9. Outside Counsel: attorneys who are not employees of a Party
10 but who are retained to represent or advise a Party in this action.

11 2.10 House Counsel: attorneys who are employees of a Party.

12 2.11 Counsel (without qualifier): Outside Counsel and House
13 Counsel (as well as their support staffs).

14 2.12 Expert: a person with specialized knowledge or experience in a
15 matter pertinent to the litigation who has been retained by a Party or its counsel to
16 serve as an expert witness or as a consultant in this action and who is not a past or
17 current employee of a Party or of a competitor of a Party and who, at the time of
18 retention, is not anticipated to become an employee of a Party or a competitor of a
19 Party. This definition includes a professional jury or trial consultant retained in
20 connection with this litigation.

21 2.13 Professional Vendors: persons or entities that provide litigation
22 support services (e.g., photocopying; videotaping; translating; preparing exhibits
23 or demonstrations; organizing, storing, retrieving data in any form or medium;
24 etc.) and their employees and subcontractors.

25 3. SCOPE

26 The protections conferred by this Stipulation and Order cover not only
27 Protected Material (as defined above), but also any information copied or
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1 extracted therefrom, as well as all copies, excerpts, summaries, or compilations
2 thereof, plus testimony, conversations, or presentations by the Parties or counsel
3 to or in court or in other settings that might reveal Protected Material.

4 4. DURATION

5 Even after the termination of this litigation, the confidentiality obligations
6 imposed by this Order shall remain in effect until a Designating Party agrees
7 otherwise in writing or a court order otherwise directs.

8 5. DESIGNATING PROTECTED MATERIAL

9 5.1 Exercise of Restraint and Care in Designating Material for
10 Protection. Each Party or non-party that designates information or items for
11 protection under this Order must take care to limit any such designation to specific
12 material that qualifies under the appropriate standards. A Designating Party must
13 take care to designate for protection only those parts of material, documents,
14 items, or oral or written communications that qualify - so that other portions of the
15 material, documents, items, or communications for which protection is not
16 warranted are not swept unjustifiably within the ambit of this Order.
17 Mass, indiscriminate, or routinized designations are prohibited. Designations that
18 are shown to be clearly unjustified, or that have been made for an improper
19 purpose (e.g., to unnecessarily encumber or retard the case development process,
20 or to impose unnecessary expenses and burdens on the other Party or non-parties),
21 expose the Designating party to sanctions. If it comes to a Party's or non-party's
22 attention that information or items that it designated for protection do not qualify
23 for protection at all, or do not qualify for the level of protection initially asserted,
24 that Party or non-party must promptly notify all other parties that it is withdrawing
25 the mistaken designation.

26 5.2 Manner and Timing of Designations. Except as otherwise
27 provided in this Order (see, e.g., second paragraph of section 5.2(a), below), or as
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1 otherwise stipulated or ordered, material that qualifies for protection under this
2 Order must be clearly so designated before the material is disclosed or produced.
3 Designation in conformity with this Order requires:
4 (a) for information in documentary form (apart from
5 transcripts of depositions or other pretrial or trial proceedings), that the Producing
6 Party affix the legend "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -
7 ATTORNEYS' EYES ONLY" at the top of each page that contains protected
8 material. If only a portion or portions of the material on a page qualifies for
9 protection, the Producing Party also must clearly identify the protected portion(s)
10 (e.g., by making appropriate markings in the margins) and must specify, for each
11 portion, the level of protection being asserted (either "CONFIDENTIAL" or
12 "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY"). A Party or non-
13 party that makes original documents or materials available for inspection need not
14 designate them for protection until after the inspecting Party has indicated which
15 material it would like copied and produced. During the inspection and before the
16 designation, all of the material made available for inspection shall be deemed
17 "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY." After the inspecting
18 Party has identified the documents it wants copied and produced, the Producing
19 Party must determine which documents, or portions thereof, qualify for protection
20 under this Order, then, before producing the specified documents, the Producing
21 Party must affix the appropriate legend ("CONFIDENTIAL" or "HIGHLY
22 CONFIDENTIAL - ATTORNEYS' EYES ONLY") at the top of each page that
23 contains Protected Material. If only a portion or portions of the material on a page
24 qualifies for protection, the Producing Party also must clearly identify the
25 protected portions) (e.g., by making appropriate markings in the margins) and
26 must specify, for each portion, the level of protection being asserted (either
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1 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL - ATTORNEYS' EYES
2 ONLY").

3 (b) for testimony given in deposition or in other pretrial or
4 trial proceedings, that the Party or non-party offering or sponsoring the testimony
5 identify on the record, before the close of the deposition, hearing, or other
6 proceeding, all protected testimony, and further specify any portions of the
7 testimony that qualify as "HIGHLY CONFIDENTIAL -ATTORNEYS' EYES
8 ONLY." When it is impractical to identify separately each portion of testimony
9 that is entitled to protection, and when it appears that substantial portions of the
10 testimony may qualify for protection, the Party or non-party that sponsors, offers,
11 or gives the testimony may invoke on the record (before the deposition or
12 proceeding is concluded) a right to have up to 20 days to identify the specific
13 portions of the testimony as to which protection is sought and to specify the level
14 of protection being asserted ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL
15 - ATTORNEYS' EYES ONLY"). Only those portions of the testimony that are
16 appropriately designated for protection within the 20 days can be covered by the
17 provisions of this Stipulated Protective Order.

18 Transcript pages containing Protected Material must be separately bound by
19 the court reporter, who must affix to the top of each such page the legend
20 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
21 ONLY," as instructed by the Party or nonparty offering or sponsoring the witness
22 or presenting the testimony.

23 (c) for information produced in some form other than
24 documents, and for any other tangible items, that the Producing Party affix in a
25 prominent place on the exterior of the container or containers in which the
26 information or item is stored the legend "CONFIDENTIAL" or "HIGHLY
27 CONFIDENTIAL - ATTORNEYS' EYES ONLY." If only portions of the
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1 information or item warrant protection, the Producing Party, to the extent
2 practicable, shall identify all protected portions, specifying whether they qualify as
3 "Confidential" or as "Highly Confidential- Attorneys' Eyes Only."

4 5.3 Inadvertent Failures to Designate. If timely corrected, an
5 inadvertent failure to designate qualified information or items as "Confidential" or
6 "Highly Confidential- Attorneys' Eyes Only" does not, standing alone, waive the
7 Designating Party's right to secure protection under this Order for such material. If
8 material is appropriately designated as "Confidential" or "Highly Confidential-
9 Attorneys' Eyes Only" after the material was initially produced, the Receiving
10 Party, on timely notification of the designation, must make reasonable efforts to
11 assure that the material is treated in accordance with the provisions of this Order.

12 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

13 6.1 Timing of Challenges. Unless a prompt challenge to a
14 Designating Party's confidentiality designation is necessary to avoid foreseeable
15 substantial unfairness, unnecessary economic burdens, or a later significant
16 disruption or delay of the litigation, a Party does not waive its right to challenge a
17 confidentiality designation by electing not to mount a challenge promptly after the
18 original designation is disclosed.

19 6.2 Meet and Confer. A Party that elects to initiate a challenge to a
20 Designating Party's confidentiality designation must do so in good faith and must
21 begin the process by conferring directly (in voice to voice dialogue; other forms of
22 communication are not sufficient) with counsel for the Designating Party. In
23 conferring, the challenging Party must explain the basis for its belief that the
24 confidentiality designation was not proper and must give the Designating Party an
25 opportunity to review the designated material, to reconsider the circumstances,
26 and, if no change in designation is offered, to explain the basis for the chosen
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1 designation. A challenging Party may proceed to the next stage of the challenge
2 process only if it has engaged in this meet and confer process first.

3 6.3 Judicial Intervention. A Party that elects to press a challenge to
4 a confidentiality designation after considering the justification offered by the
5 Designating Party may file and serve a motion under Civil Local Rule 7 (and in
6 compliance with Civil Local Rule 79-5, if applicable) that identifies the
7 challenged material and sets forth in detail the basis for the challenge. Each such
8 motion must be accompanied by a competent declaration that affirms that the
9 movant has complied with the meet and confer requirements imposed in the
10 preceding paragraph and that sets forth with specificity the justification for the
11 confidentiality designation that was given by the Designating Party in the meet
12 and confer dialogue.

13 The burden of persuasion in any such challenge proceeding shall be
14 on the Designating Party. Until the court rules on the challenge, all parties shall
15 continue to afford the material in question the level of protection to which it is
16 entitled under the Producing Party's designation.

17 7. ACCESS TO AND USE OF PROTECTED MATERIAL

18 7.1 Basic Principles. A Receiving Party may use Protected Material
19 that is disclosed or produced by another Party or by a non-party in connection with
20 this case only for prosecuting, defending, or attempting to settle this litigation.
21 Such Protected Material may be disclosed only to the categories of persons and
22 under the conditions described in this Order. When the litigation has been
23 terminated, the Receiving Party must comply with the provisions of section II,
24 below (FINAL DISPOSITION).

25 Protected Material must be stored and maintained by a Receiving
26 Party at a location and in a secure manner that ensures that access is limited to the
27 persons authorized under this Order.

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1 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or items designated
4 CONFIDENTIAL only to:
5 (a) the Receiving Party's Outside Counsel of record in this
6 action, as well as employees of said Counsel to whom it is reasonably necessary to
7 disclose the information for this litigation and who have signed the "Agreement to
8 Be Bound by Protective Order" that is attached hereto as Exhibit A;
9 (b) the officers, directors, and employees (including House
10 Counsel) of the Receiving Party to whom disclosure is reasonably necessary for
11 this litigation and who have signed the "Agreement to Be Bound by Protective
12 Order" (Exhibit A);
13 (c) experts (as defined in this Order) of the Receiving Party to
14 whom disclosure is reasonably necessary for this litigation and who have signed
15 the "Agreement to Be Bound by Protective Order" (Exhibit A);
16 (d) the Court and its personnel;
17 (e) court reporters, their staffs, and professional vendors to
18 whom disclosure is reasonably necessary for this litigation and who have signed
19 the "Agreement to Be Bound by Protective Order" (Exhibit A);
20 (f) during their depositions, witnesses in the action to whom
21 disclosure is reasonably necessary and who have signed the "Agreement to Be
22 Bound by Protective Order" (Exhibit A). Pages of transcribed deposition
23 testimony or exhibits to depositions that reveal Protected Material must be
24 separately bound by the court reporter and may not be disclosed to anyone except
25 as permitted under this Stipulated Protective Order.
26 (g) the author of the document or the original source of the
27 information.
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1 7.3 Disclosure of "HIGHLY CONFIDENTIAL -ATTORNEYS'
2 EYES ONLY" Information or Items. Unless otherwise ordered by the court or
3 permitted in writing by the Designating Party, a Receiving Party may disclose any
4 information or item designated "HIGHLY CONFIDENTIAL - ATTORNEYS'
5 EYES ONLY" only to:

6 (a) the Receiving Party's Outside Counsel of record in this
7 action, as well as employees of said Counsel to whom it is reasonably necessary to
8 disclose the information for this litigation and who have signed the "Agreement to
9 Be Bound by Protective Order" that is attached hereto as Exhibit A;

10 (b) House Counsel of a Receiving Party (1) who has no
11 involvement in competitive decision-making, (2) to whom disclosure is reasonably
12 necessary for this litigation, and (3) who has signed the "Agreement to Be Bound
13 by Protective Order" (Exhibit A);

14 (c) Experts (as defined in this Order) (1) to whom disclosure is
15 reasonably necessary fur this litigation, (2) who have signed the "Agreement to Be
16 Bound by Protective Order" (Exhibit A);

17 (d) the Court and its personnel;

18 (e) court reporters, their staffs, and professional vendors to
19 whom disclosure is reasonably necessary for this litigation and who have signed
20 the "Agreement to Be Bound by Protective Order" (Exhibit A); and

21 (f) the author of the document or the original source of the
22 information.

23 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
24 PRODUCED IN OTHER LITIGATION.

25 If a Receiving Party is served with a subpoena or an order issued in
26 other litigation that would compel disclosure of any information or items
27 designated in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -
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1 ATTORNEYS' EYES ONLY," the Receiving Party must so notify the Designating
2 Party, in writing (by fax and email, if possible) immediately and in no event more
3 than three court days after receiving the subpoena or order. Such notification must
4 include a copy of the subpoena or court order.

5 The Receiving Party also must immediately inform in writing the
6 Party who caused the subpoena or order to issue in the other litigation that some or
7 all the material covered by the subpoena or order is the subject of this Protective
8 Order. In addition, the Receiving Party must deliver a copy of this Stipulated
9 Protective Order promptly to the Party in the other action that caused the subpoena
10 or order to issue.

11 The purpose of imposing these duties is to alert the interested parties
12 to the existence of this Protective Order and to afford the Designating Party in this
13 case an opportunity to try to protect its confidentiality interests in the court from
14 which the subpoena or order issued. The Designating Party shall bear the burdens
15 and the expenses of seeking protection in that court of its confidential material --
16 and nothing in these provisions should be construed as authorizing or encouraging
17 a Receiving Party in this action to disobey a lawful directive from another court.

18 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

19 If a Receiving Party learns that, by inadvertence or otherwise, it has
20 disclosed Protected Material to any person or in any circumstance not authorized
21 under this Stipulated Protective Order, the Receiving Party must immediately (a)
22 notify in writing the Designating Party of the unauthorized disclosures, (b) use its
23 best efforts to retrieve all copies of the Protected Material, (c) inform the person or
24 persons to whom unauthorized disclosures were made of all the terms of this Order,
25 and (d) request such person or persons to execute the "Acknowledgment and
26 Agreement to Be Bound" that is attached hereto as Exhibit A.

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1 10. FILING PROTECTED MATERIAL. Without written permission from
2 the Designating Party or a court order secured after appropriate notice to all
3 interested persons, a Party may not file in the public record in this action any
4 Protected Material. A Party that seeks to file under seal any Protected Material
5 must comply with Civil Local Rule 79-5.

6 11. FINAL DISPOSITION. Unless otherwise ordered or agreed in writing
7 by the Producing Party, within sixty days after the final termination of this action,
8 each Receiving Party must return all Protected Material to the Producing Party. As
9 used in this subdivision, "all Protected Material" includes all copies, abstracts,
10 compilations, summaries or any other form of reproducing or capturing any of the
11 Protected Material. With permission in writing from the Designating Party, the
12 Receiving Party may destroy some or all of the Protected Material instead of
13 returning it. Whether the Protected Material is returned or destroyed, the Receiving
14 Party must submit a written certification to the Producing Party (and, if not the
15 same person or entity, to the Designating Party) by the sixty day deadline that
16 identifies (by category, where appropriate) all the Protected Material that was
17 returned or destroyed and that affirms that the Receiving Party has not retained any
18 copies, abstracts, compilations, summaries or other forms of reproducing or
19 capturing any of the Protected Material. Notwithstanding this provision, Counsel
20 are entitled to retain an archival copy of all pleadings, motion papers, transcripts,
21 legal memoranda, correspondence or attorney work product, even if such materials
22 contain Protected Material. Any such archival copies that contain or constitute
23 Protected Material remain subject to this Protective Order as set forth in Section 4
24 (DURATION), above.

25 12. MISCELLANEOUS

26 12.1 Right to Further Relief. Nothing in this Order abridges the right
27 of any person to seek its modification by the Court in the future.

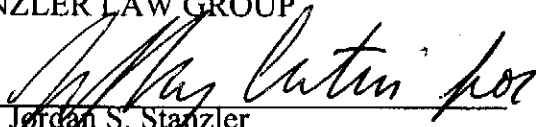
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1 12.2 Right to Assert Other Objections. By stipulating to the entry of
2 this Protective Order no Party waives any right it otherwise would have to object to
3 disclosing or producing any information or item on any ground not addressed in
4 this Stipulated Protective Order. Similarly, no Party waives any right to object on
5 any ground to use in evidence of any of the material covered by this Protective
6 Order.

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8 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.


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10 DATED: 4/15/11

STANZLER LAW GROUP

11 By: 
12 Jordan S. Stanzler
13 Attorneys for Plaintiff
Tyco Thermal Controls, LLC

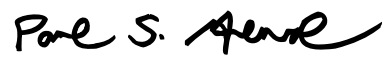
14 DATED: 4/15/11

GORDON & REES LLP

15 By: 
16 Mordecai Boone
17 Attorneys for Defendant Rowe Industries, Inc.

18 PURSUANT TO STIPULATION, IT IS SO ORDERED.

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20 DATED: April 18, 2011



United States District/Magistrate Judge

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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of

_____ [print or type full address], declare under penalty of perjury that I have read in its

entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Northern District of California on

_____ [date] in the case of *Tyco Thermal Controls LLC v.*

Redwood Industrials, et al., Laverne E. Doolittle, Emile K. Doolittle, Masha Lampert, Audrey Lampert, Morris M. Grupp, Anna M. Grupp, Roland Lampert, Carlisle Companies Incorporated, Carlisle Corporation, Tensolite Insulated Wire Pacific Division, Inc., Tensolite Insulated Wire Co., Coleman Cable and Wire Co., Pacific Transformer Co., Hill Magnetics, Inc., Hill Industries, Inc., and Rowe Industries, Inc., Case No. C-06-07164 JF __, United States District Court for the Northern District of California. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Dated: _____

Signature: _____