

E-Filed 03/29/2010

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11
12 AQUA-LUNG AMERICA, INC., a
Delaware Corporation,

No. C 07-02346 RS

13
14 Plaintiff,

v.

**ORDER GRANTING IN PART AND
DENYING IN PART MOTIONS TO
FILE UNDER SEAL**

15
16 AMERICAN UNDERWATER
17 PRODUCTS, INC., d/b/a OCEANIC, a
California Corporation; and TWO FORTY
18 DEUCE CORPORATION, a Colorado
Corporation,

19 Defendants.
20 _____/

21
22 Plaintiff Aqua-Lung has moved to file under seal its reply brief in support of its motion to
23 dismiss Defendant Two Forty Deuce's fraud claim, as well as Exhibits C, D, E, and F thereto.
24 Thereafter, pursuant to Civil Local Rule 79-5(d), defendant Two Forty Deuce, as designating party,
25 filed a declaration in support of Aqua-Lung's sealing motion. The declaration waived
26 confidentiality as to Exhibit C, but requested that the remainder of the sealing motion be granted.
27 Therefore, good cause appearing, Aqua-Lung's sealing motion will be granted in part and denied in
28 part as follows: 1) as to the reply brief in support of Aqua-Lung's motion to dismiss Two Forty

No. C 07-02346 RS
ORDER

1 Deuce's fraud claim, the motion to seal is GRANTED; 2) as to Exhibit C thereto, the motion is
2 DENIED; 3) as to Exhibits D, E, and F thereto, the motion is GRANTED.

3 Aqua-Lung has also moved to file under seal its reply brief in support of its motion for
4 summary judgment on Two Forty Deuce's trade secret misappropriation claim, as well as Exhibits
5 A, C, D, F, G, H, and I thereto. Thereafter, pursuant to Civil Local Rule 79-5(d), Two Forty Deuce,
6 as designating party, filed a declaration in support of Aqua-Lung's sealing motion. The declaration
7 waived confidentiality as to Exhibits C, F, G, and I. It requests the sealing order be granted as to the
8 reply itself and Exhibits A and D. As to Exhibit H, neither the Court nor Two Forty Deuce has
9 received a copy. Therefore, good cause appearing, Aqua-Lung's sealing motion will be granted in
10 part and denied in part as follows: 1) as to the reply brief in support of Aqua-Lung's motion for
11 summary judgment on the trade secret misappropriation claim, the motion to seal is GRANTED; 2)
12 as to Exhibits A and D thereto, the motion to seal is GRANTED; and 3) as to Exhibits C, F, G, H,
13 and I, the motion to seal is DENIED.

14 In accordance with Civil Local Rule 79-5(e), the Clerk's office in the **San Francisco**
15 **Division** is directed to hold the lodged documents that are the subject of this sealing order until
16 March 31, 2010, for Aqua-Lung, the submitting party, to retrieve them. Thereafter, if they are not
17 retrieved, the Clerk should dispose of them. Aqua-Lung should then re-submit two reply briefs and
18 their accompanying exhibits in accordance with Civil Local Rule 79-5(c)(3)-(5). Note that the
19 lodged copies discussed in Rule 79-5(c)(3) & (4) should be filed with the Clerk's office in the **San**
20 **Jose Division**.

21
22
23 IT IS SO ORDERED.

24
25 Dated: 03/29/2010

26 
27 RICHARD SEEBORG
28 UNITED STATES DISTRICT JUDGE

No. C 07-02346 RS
ORDER