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Filing date: **08/12/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<b>Proceeding</b>	92043784
<b>Party</b>	Defendant AMX Corporation AMX Corporation 3000 Research Drive Richardson, TX 75082
<b>Correspondence Address</b>	Kay Lyn Schwarz Gardere Wynne Sewell LLP 1601 Elm Street, Suite 3000 Dallas, TX 75201
<b>Submission</b>	STIPULATED PROTECTIVE ORDER
<b>Filer's Name</b>	Kay Lyn Schwartz
<b>Filer's e-mail</b>	kschwartz@gardere.com, ip@gardere.com
<b>Signature</b>	/Kay Lyn Schwartz/
<b>Date</b>	08/12/2005
<b>Attachments</b>	AMX-Bose-Protective Orderi.pdf ( 8 pages )

**THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BOSE CORPORATION,  
  
          PETITIONER,  
  
v.  
  
AMX CORPORATION,  
  
          RESPONDENT.

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CANCELLATION NO. 92043784  
  
STIPULATED PROTECTIVE ORDER

**STIPULATED PROTECTIVE ORDER**

Upon the stipulation of the parties to this action, it is hereby ORDERED that:

1. Any information produced by any party or non-party as part of discovery in this action may be designated by the producing party(ies) as "Confidential" or "Attorneys Eyes Only." As a general guideline, any information, which is publicly available, including any information, which can be ascertained from examination of a product sold by any party, should not be designated as "Confidential" or "Attorneys Eyes Only." A document may be designated "Confidential" when it contains confidential information that may be reviewed by certain named persons of the receiving party but must be protected against disclosure to third parties.

2. A document may be designated "Attorneys Eyes Only" when it contains trade secrets of a technical nature, such as information relating to product formulas, manufacturing methods, product development plans, or confidential business information such as marketing plans, customer lists, pricing plans, balance sheets, supplier identities or other information which would put the producing person or entity at a competitive disadvantage or would involve information of a highly personal and sensitive nature.

3. Information designated "Confidential" or "Attorneys Eyes Only" may be used only in connection with this litigation, and not for any other purpose. Such information may not be disclosed to anyone except as provided in this Order.

4. Any party or non-party wishing to come within the provisions of this Order may designate in writing, the documents, (as defined in Rule 34 Fed. R. Civ. P. and Rule 1001 Fed. R. Evid.) or portions thereof which it considers confidential at the time the documents are produced. Each page of the document must be marked "Confidential" or "Attorneys Eyes Only" by the producing party. In the instance of deposition testimony, the witness under deposition or his or her counsel shall invoke the provisions of this Order in a timely manner and designate the level of restriction during the deposition, and parties shall be excluded only from testimony designated "Attorneys Eyes Only." The witness under deposition or his or her counsel shall have the right, within thirty (30) days of receiving a transcript of the deposition, to designate or change the level of restriction of the transcript or portion thereof. Documents inadvertently produced without the "Confidential" or "Attorneys Eyes Only" designation(s) may be substituted by appropriately designating documents, provided that it will not be considered to be a violation of the Order if the prior undesignated documents have, prior to the substitution, been disclosed to others.

5. Any documents stamped "Confidential" as well as any copies or excerpts thereof, or analyses or reports which pertain thereto, may be made available only to:

- (a) Attorneys of record for the receiving party, their employees and other attorneys and/or employees of their firms;
- (b) Judges, law clerks and other clerical personnel of the Board before which this action is pending;
- (c) Independent experts not associated directly or indirectly with a party whom the receiving party identifies to the producing party at least ten (10) days prior to disclosure. If the producing party has any objection to the proposed independent expert, or the disclosure, of confidential information to it, it shall so notify the receiving party within the ten (10) day period. The parties will attempt to resolve any

differences concerning such independent experts, but if they are unable to do so, the receiving party may seek relief from the Board as provided in paragraph 9 below. No disclosure of the information shall be made to the proposed independent expert until after the Board has ruled upon the issue.

(d) Officers, directors, or employees of the parties on a need to know basis.

6. Documents stamped "Attorneys Eyes Only" as well as any copies or excerpts thereof, or analyses or reports which pertain thereto, may be made available only to:

(a) Attorneys of record for the receiving party, their employees and other attorneys and/or employees of their firms, except for any persons with a present ownership or other financial interest in one or more parties or in the outcome of this litigation;

(b) Judges, law clerks and other clerical personnel of the Board before which this action is pending; and

(c) Independent experts not associated directly or indirectly with a party whom the receiving party identifies to the producing party at least ten (10) days prior to disclosure. If the producing party has any objection to the proposed independent expert, or the disclosure of the "Attorneys' Eyes Only" information to it, it shall so notify the receiving party within the ten (10) day period. The parties will attempt to resolve any differences concerning such independent experts, but if they are unable to do so, the receiving party may seek relief from the Board as provided in paragraph 9 below. No disclosure of the information shall be made to the proposed independent expert until after the Board has ruled upon the issue.

7. Each person permitted by the parties or their counsel to have access to designated information under the terms of paragraphs 5(c), 5(d), and 6(c) of this Order shall, prior to being given such access, be provided with a copy of this Order for review. Upon receiving this Order,

each person shall sign a statement in the form of **EXHIBIT A** hereto indicating that he has read the order and agrees to comply with its terms.

8. The restrictions set forth in this Order will not apply to information which is known to the receiving party or the public before the date of its transmission to the receiving party, or which becomes known to the public after the date of its transmission to the receiving party, provided that such information does not become publicly known by any act or omission of the receiving party, its employees or agents which would be in violation of this Order.

9. Any document or evidence filed with the Board or submitted to the Judge which is designated as containing "Confidential" or "Attorneys Eyes Only" information will be filed in a sealed envelope or other appropriate sealed container marked on the outside with the title of the action, and a statement substantially in the following form:

"CONFIDENTIAL" or "ATTORNEYS EYES ONLY"

This document is subject to a PROTECTIVE ORDER issued by the Board and may not be examined or copied except in compliance with that order.

10. If, at any time during the preparation for trial or during the trial of this action, any party believes that any other party or non-party has unreasonably designated certain information as "Confidential" or "Attorneys Eyes Only," or that the so-designated documents or information is excepted by paragraphs 1, 2 or 8, or believes that it is necessary to disclose designated information to persons other than those permitted by this Order, and the producing party does not agree to change the designation or to the further disclosure, the objecting party may make an appropriate application to this Board requesting that the specifically identified documents, information, and/or deposition testimony be excluded from the provisions of this Order or be available to specified other persons. No disclosure of such information shall be made until ruled upon by the Board.

11. The Order may only be modified by an order of this Board, or upon written consent of the parties.

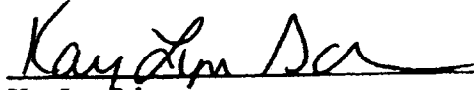
12. Upon termination of this action, unless the attorneys of record otherwise agree in writing, each party shall assemble and return all "Confidential" and "Attorneys Eyes Only" designated materials, including copies, to the person(s) and entity from whom the material was obtained. The parties and their counsel will not be required to return any "Confidential" or "Attorneys Eyes Only" designated materials that were admitted into evidence at trial or that contain the non-producing party's own privileged communications or attorney work product.

13. This Order will not prejudice the right of any party or non-party to oppose production of any information on the ground of attorney-client privilege, work product immunity, or any other protection provided under the law.


14. The parties and any other person subject to the terms of this Order agree that the TTAB has and retains jurisdiction during and after this action is terminated for the purpose of enforcing this Order.

SO STIPULATED:

Date: 8-12-05

  
\_\_\_\_\_  
Kay Lyn Schwartz  
GARDERE WYNNE SEWELL LLP  
Attorney for Respondent, AMX CORPORATION

Date: 8-11-05

  
\_\_\_\_\_  
Charles Hieken  
Amy L. Brosius  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110-2804  
Attorneys for Petitioner, BOSE CORPORATION

IT IS SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
Trademark Trial and Appeal Board Judge

:

**EXHIBIT A**

**CONFIDENTIALITY AGREEMENT**

1. I have been asked by \_\_\_\_\_ or its counsel to receive and review certain materials or testimony that have been designated as ATTORNEYS EYES ONLY and/or CONFIDENTIAL within the terms of the Stipulated Protective Order entered in the action entitled Bose Corporation v. AMX Corporation, Cancellation No. 92043784. I have read the aforementioned Stipulated Protective Order, and agree to be bound by it.

2. I declare the foregoing is true under penalty of perjury.

\_\_\_\_\_  
NAME

Dated: \_\_\_\_\_



**CERTIFICATE OF SERVICE**

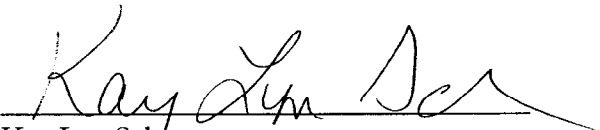
The undersigned certifies that the foregoing STIPULATED PROTECTIVE ORDER was served upon counsel for Petitioner as indicated below on August 12, 2005:

Charles Hieken  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110-2804

[U.S. MAIL]

Amy L. Brosius  
FISH & RICHARDSON P.C.  
225 Franklin Street  
Boston, MA 02110-2804

[U.S. MAIL]

  
\_\_\_\_\_  
Kay Lyn Schwartz

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that the foregoing *Stipulated Protective Order* is being filed electronically with the United States Patent and Trademark Office, Trademark Trial and Appeal Board via the Electronic System for Trademark Trials and Appeals (ESTTA) on August 12, 2005.

  
\_\_\_\_\_  
Kay Lyn Schwartz