

ESTTA Tracking number: **ESTTA1163705**

Filing date: **10/04/2021**

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

Proceeding	92075974
Party	Defendant Medela Holding AG
Correspondence Address	JAMES R. MENKER HOLLEY & MENKER, P.A. PO BOX 331937 ATLANTIC BEACH, FL 32233 UNITED STATES Primary Email: eastdocket@holleymenker.com 904-247-2620
Submission	Other Motions/Submissions
Filer's Name	James R Menker
Filer's email	eastdocket@holleymenker.com
Signature	/jmenker/
Date	10/04/2021
Attachments	2021-10-4 Response to Motion to Compel 92075974.pdf(124403 bytes)

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

AH License ApS,)	
)	
Petitioner,)	
)	Cancellation No. 92075974
v.)	
)	Registration No. 4915973
Medela Holding AG,)	
)	
Registrant.)	

**REGISTRANT’S RESPONSE TO PETITIONER’S MOTION TO COMPEL/
REGISTRANT’S MOTION FOR PROTECTIVE ORDER**

Registrant, Medela Holding AG, through its undersigned attorneys, hereby responds to Petitioner, AH License ApS, motion to compel filed on September 13, 2021.

On June 2, 2021, Registrant timely responded to Petitioner’s First Set of Requests for Production of Documents to Registrant, Petitioner’s First Set of Interrogatories to Registrant and Petitioner’s First Set of Requests for Admission to Registrant.

Registrant has collected documents responsive to Petitioner’s First Set of Requests for Production of Documents to Registrant and has produced many of those documents contemporaneously with this response with one exception. A good portion of the documents responsive to Petitioner’s document requests involve or relate to an agreement between Registrant’s predecessor-in-interest, Lamprecht Ltd., and a third party. The written agreement contains a clause prohibiting the disclosure of the agreement as well as all information and materials regarding manufacturing and commercial secrets to any third party. No exceptions to the confidentiality clause are provided in the agreement. As a result, Registrant has been trying

to determine whether it can permissibly produce these documents with an Attorney's Eyes Only (trade secret commercially sensitive) designation pursuant to the Board's standard protective order or potentially a modification of the standard protective order. Although Registrant has not found any precedent from the Board or the state whose laws govern the agreement, Registrant has come to the conclusion that it is not possible to produce these documents without violating the confidentiality clause in the agreement.

Pursuant to TBMP Rule 526 and 37 C.F.R. § 2.120(g), Registrant hereby moves the Board for a protective order to prevent Registrant from producing these documents in the absence of a subpoena issued to the other party to the agreement. Should the Board wish, Registrant will make the relevant documents available to the Board for in camera inspection.

Respectfully submitted,

MEDELA HOLDING AG

By: /jmenker/
James R. Menker

Registrant's Attorneys

HOLLEY & MENKER, P.A.
PO Box 331937
Atlantic Beach, Florida 32233
T: 904-247-2620
F: 202-280-1177
E-Mail: eastdocket@holleymenker.com

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing REGISTRANT'S RESPONSE TO PETITIONER'S MOTION TO COMPEL/REGISTRANT'S MOTION FOR PROTECTIVE ORDER has been served on Katherine A. Markert of MARKERT & COMINOLLI PLLC by forwarding said copy on October 4, 2021, via email to: km@markertcominolli.com, docket@markertcominolli.com, ec@markertcominolli.com.

By: /jmenker/
James R. Menker