

October 23, 2018

File Number: 58FC-261495

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Awearable Apparel, Inc. – Request for Confidential Treatment
FCC ID: 2ARHMLYNQ01 / GRANTEE CODE: 2ARHM

Dear Ms. Dortch:

Awearable Apparel, Inc. pursuant to 5 U.S.C. § 552 and 47 C.F.R. §§ 0.457, 0.459, hereby requests that certain information in and attachments to the above-referenced application to modify an experimental license be treated as confidential and not subject to public inspection. The information contained in the narrative attached to Awearable’s Form 731 application for equipment authorization (the “Application Narrative”) contains confidential and commercially sensitive information that would cause significant economic and competitive harm if publicly disclosed.

Exemption 4 allows entities to withhold from public information “trade secrets and commercial or financial information obtained from a person and privileged or confidential.”¹ Section 0.457(d)(2) of the Commission’s rules allows persons submitting materials that they wish to be withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure, pursuant to Section 0.459.² As demonstrated herein, the information contained in the Application Narrative contains confidential and commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act.³

In accordance with the requirements contained in Section 0.459(b) for such requests, Awearable submits the following information in support of its request for confidential treatment:

¹ 5 U.S.C. §552(b)(4).

² 47 C.F.R. § 0.459.

³ 5 U.S.C. §552(b)(4); 47 C.F.R. § 0.457(d).

1. Identification of the specific information for which confidential treatment is sought:

Awearable seeks *short-term* confidential treatment for the following exhibits to the Form 731:

- Block Diagram
- Schematics
- Test Set-up Photos
- Internal Photos
- Parts List/Tune Up
- Operational Description

Awearable seeks *long-term* confidential treatment for the following exhibits to the Form 731:

- Block Diagram
- Schematics
- Internal Photos
- Parts List/Tune Up
- Operational Description

Together, this information constitutes the “Confidential Information.”

2. Identification of the Commission proceeding in which the information was submitted or a description of the circumstances giving rise to the submission:

Awearable is submitting this information as part of a Form 731 application to obtain FCC certification for a new radiofrequency device.

3. Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:

The Confidential Information contains information of significant commercial value and descriptions, photographs, designs, and schematics therein include trade secrets.⁴ The innovative equipment, services and technologies described by Awearable in the Form 731 and exhibits could be used by Awearable’s competitors to its disadvantage.

4. Explanation of the degree to which the information concerns a service that is subject to competition:

⁴ See, e.g., *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, 11 FCC Rcd 12406, 1209, ¶ 4 (1996) (explaining that “[i]n the context of the FOIA, a trade secret is defined as ‘a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.’”).

The equipment, services, and technologies that are the subject of the instant Form 731 application are in the early stages of their development. Awearable anticipates that the continued development of these equipment, services, and technologies will result in innovative offerings that will become an integral part of highly competitive wireless and location-based services.

5. Explanation of how disclosure of the information could result in substantial competitive harm:

Information concerning Awearable's equipment, services, and technologies is proprietary and commercially sensitive. If the Confidential Information were publicly disclosed, Awearable's competitors could use the information to undermine Awearable's market position. Public release of this information would jeopardize Awearable's business plans and enable its competitors to unfairly appropriate Awearable's plans to develop its own innovative equipment, services and technologies.

6. Identification of any measures taken by the submitting party to prevent unauthorized disclosure:

Awearable has taken several steps to ensure the Confidential Information is not publicly disclosed. The Confidential Information is not distributed, circulated, or provided to any party outside of Awearable without executing a Non-Disclosure Agreement with Awearable. The company treats this data as sensitive information; thus only specialized personnel within the company have access to it and only on a need to know basis.

7. Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:

Awearable has not publicly disclosed the Confidential Information. All parties outside of Awearable that have access to this information obtained such information only after executing a Non-Disclosure Agreement with Awearable.

8. Justification of the period during which the submitting party asserts that material should not be available for public disclosure:

Pursuant to guidance from the Office of Engineering & Technology, Awearable understands that internal photos may be given long-term confidential treatment if the circuit board or internal components are not accessible to users. That is the case with the radiofrequency device for which Awearable seeks long-term confidential treatment for the internal photos. Moreover, public access is restricted to the internal components of the device and only Awearable personnel are available to service these devices.

Awearable maintains that the Confidential Information should be kept confidential pursuant to the distinctions between short-term and long-term confidentiality set forth in Question 1 above. Even historical information could be used by Awearable's competitors to track business

decisions, business plans and business relationships. This information could be used by Awearable's competitors to its detriment.

9. Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:

The public interest would not be served by making the Confidential Information publicly available. The nature of the Awearable's proprietary technology is of significant value to other companies and would put Awearable at a significant competitive disadvantage if it were made public.

Please contact the undersigned should you have any questions concerning this filing.

Very truly yours,

/s/ Douglas Svor

Douglas A. Svor
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP