

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**IN RE BIOSEARCH TECHNOLOGIES, INC. AND
EUROFINS MWG OPERON INC.,**
Petitioners.

Miscellaneous Docket No. 995

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of Texas in case no. 09-CV-0283, Judge T. John Ward.

ON PETITION

Before DYK, *Circuit Judge.*

O R D E R

The court considers whether certain material in the appendix for petitioner's writ of mandamus and the supporting briefs should maintain confidential marking.

Although this court does allow for confidential filings, Fed. Cir. R. 28(d), there "is a strong presumption in favor of a common law right of public access to court proceedings." *In re Violation of rule 28(D)*, 635 F.3d 1352, 1356 (Fed. Cir. 2011). Petitioners have included a document at

A509-26 that has been marked confidential in its entirety. In addition, both petitioners and respondents identify large portions of their briefs as confidential, including Respondent's response at page 11-16 and Petitioner's reply at pages 2-7. In the interest of public access, the court requests that the parties submit a modified nonconfidential version of these appendix pages and briefs. The submission should delete only the specific information that can legitimately be kept confidential.

Accordingly,

IT IS ORDERED THAT:

Absence a receipt of a modified nonconfidential version of the above-identified appendix pages and briefs within 7 days of the date of filing of this order, this court will make publicly available a document reflecting that confidential material and may use such material in its public disposition.

FOR THE COURT

NOV 23 2011

Date

/s/ Jan Horbaly

Jan Horbaly

Clerk

cc: Thomas M. Peterson, Esq.

Kenneth E. Keller, Esq.

Clerk, United States District Court for the Eastern
District of Texas

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FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

NOV 23 2011

JAN HORBALY
CLERK