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Federal Communications Commission

Authorization and Evaluation Division
7435 Oakland Mills Road
Columbia, MD 21046

New York, Jun. 19, 2024

REQUEST FOR CONFIDENTIAL TREATMENT

Kontur US, Inc. – Application for Ground Penetrating Radar, **FCC ID: 2BFSC-M6A20**

Kontur US, Inc. ("Kontur"), files this application for equipment authorization for certification of a Ground Penetrating Radar system. Pursuant to Sections 0.457 and 0.459 of the Commission's Rules, 47 C.F.R. §§ 0.457, 0.459, Kontur requests confidential treatment of certain information contained therein. Specifically, Kontur requests that the following information be kept from public disclosure:

- Schematics
- Operational description
- Block diagram
- Internal photos

In support of this request, and pursuant to Section 0.459(b) of the Commission's rules, 47 C.F.R. § 0.459(b), Kontur hereby states as follows:

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

Kontur seeks confidential treatment of the schematics, operational description, block diagram, and internal photos of the device ("Confidential Information"). The Confidential Information relates to Kontur's proprietary information that is not generally available to the public. The pages that contain Confidential Information have the word "Confidential" in the headers of the pages containing Confidential Information.

2. Description of circumstances giving rise to the submission.

Kontur has expended significant resources to develop the device, and the Confidential Information contained in the device and the application is highly competitive and sensitive in nature. The Confidential Information is being submitted in support of the application for certification with the FCC.

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

The information for which Kontur seeks confidential treatment contains sensitive, proprietary information of Kontur that would customarily be guarded from competitors. Further, the Confidential Information contains information that is a trade secret regarding Kontur's technology. Accordingly, Kontur seeks to protect the Confidential Information being submitted with the application from public disclosure.

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

The Confidential Information submitted with the application contains information relating to commercial matters and proprietary technology, including highly sensitive information, that could be used by competitors to Kontur's disadvantage. While the device is not a service per se, the marketplace in which Kontur operates, while niche, is subject to competition as there are several companies that manufacture products that are similar to and compete with the subject device.

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

Competitors could use Kontur's proprietary commercial and technical information to Kontur's detriment as competitors would gain access to sensitive information about the device to enable competitors to develop competing products without having to invest the effort and capital to develop similar products and technology. Providing competitors with access to the Confidential Information would allow them to not only avoid significant research and development costs associated with designing competing devices, access to such information could allow competitors to reverse-engineer the technology, components, and costs of the device. This would provide competitors with an unfair advantage as they could derive information regarding Kontur's suppliers and margin costs, which would be used against Kontur in the competitive marketplace.

As discussed above, the marketplace in which Kontur competes is a niche market, and there are approximately six companies in this space. In order to safeguard Kontur's technology and trade secret information, it has become standard practice for Kontur and manufacturers of similar devices to seal their devices so that it is not possible for the general public to open the devices without using destructive methods as the subject device is assembled using tamper-proof security fasteners. Accordingly, the Confidential Information, including internal photos, is not readily available to the public.

Release of the Confidential Information would result in substantial competitive harm because that would give competitors a significant advantage in the development of future products without similar investment of capital or resources. It is Kontur's understanding that the FCC has withheld from public inspection confidential information of similar devices¹.

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

Kontur has treated the Confidential Information as confidential, and Kontur has not generally disclosed that information publicly. Kontur has afforded such information confidential treatment consistent industry best practices.

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

Kontur has not made the Confidential Information public. To the extent that such information has been disclosed to third parties, such disclosure has not been made unless it is covered by a confidentiality agreement or protective order.

8. Justification for internal photos long term confidentiality request.

Kontur requests that internal photos of the device should be withheld from public disclosure. The Commission has previously granted confidentiality under similar conditions to numerous applications by Screening Eagle USA INC., Mala GeoScience AB, and Geophysical Survey Systems Inc.

The electronics of the Ground Penetrating Radar device in question is assembled and sealed in a very compact form factor, using assembly methods and electromagnetic sealing techniques which makes it impossible to gain access to the internals of the device without damaging and disabling the device. To gain access to the views shown in the "internal photos" document, you need a driver bit matching the tamper-proof security bolts. This is a custom driver bit matching the security bolt which has a unique keyway. The driver bit is only available from Kontur, and only distributed to certified service providers.

After getting access to the internals of the device the electronics need to be disassembled carefully following a procedure not available to the public. During assembly the electromagnetic sealing needs to be carefully replaced with robotic precision. After system assembly the electronic tamper detection sensors need to be reset using a procedure and electronic key not available outside Kontur.

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

The Confidential Information should never be disclosed to the public. There is no need for the Commission to publicly disclose any Confidential Information submitted as part of the application.

Request for Confidential Treatment Under Exemption 4 of the Freedom of Information Act

To the extent necessary, Kontur also requests confidential treatment of Kontur's Confidential Information pursuant to Exemption 4 of the Freedom of Information Act. Exemption 4, 5 U.S.C. § 552(b)(4), protects commercial or financial information obtained from a person that is privileged or confidential. The exemption affords protection to those submitters who are required to furnish commercial or financial information to the government by safeguarding them from the competitive disadvantages that could result from disclosureⁱⁱ. Commercial or financial information is protected from disclosures if such information would be likely to cause substantial harm to the competitive position of the person from whom the information was obtainedⁱⁱⁱ. As discussed above, the FCC has granted confidential treatment for information submitted with other similar device certification applicationsⁱ. The release of Kontur's Confidential information would put Kontur at a significant competitive disadvantage because competitors could use that information to

undercut Kontur's prices, and reverse engineer Kontur's technology without having to make any significant investments to create their own devices.

Wherefore, for the foregoing reasons, Kontur requests that the Confidential Information be treated as confidential, and not be subject to public disclosure.

Sincerely,



Kent Martin
President

ⁱ See, e.g., FCC ID: QLA250MHZ EA586775; FCC ID: QLA1200MHZEA935931 FCC ID: QLA2500MHZEA639244; FCC ID: QLA80MHZHDR; FCC ID: QLAI600MHZEA923409; FCC ID: QF75103A EA87004I; FCC ID: QLAWIDERANGE; FCC ID: 2ALZQ-CO1760

ⁱⁱ See Attorney General's Memorandum for Heads of All Federal Departments and Agencies Regarding the Freedom of Information Act (Oct. 12, 2001), *reprinted in FOIA Post* (posted Oct 15, 2001).

ⁱⁱⁱ See *Nat'l Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974).