

BEFORE THE  
FEDERAL MARITIME COMMISSION

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DOCKET NO. 22-30  
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SAMSUNG ELECTRONICS

AMERICA, INC.,

COMPLAINANT,

v.

ZIM INTEGRATED SHIPPING SERVICES LTD.,

RESPONDENT.

**RESPONDENT ZIM INTEGRATED SHIPPING SERVICES LTD.'S  
MOTION FOR CONFIDENTIAL TREATMENT**

Respondent ZIM Integrated Shipping Services Ltd. (“ZIM”), by and through its attorneys, hereby moves pursuant to paragraph 19 of the Chief Administrative Law Judge Wirth’s October 22, 2022 Initial Order and 5(b) of the Federal Maritime Commission’s Rules of Practice and Procedure (the “Rules”), 46 C.F.R. 502.5(b), for confidential treatment of ZIM’s Opposition to Complainant Samsung Electronics America, Inc.’s (“SEA”) Motion to Compel the Deposition of Mr. Xavier Destriau and exhibits submitted therewith (the “Opposition to the Motion”).

On or about February 20, 2023, the parties entered into a Stipulation and Order of Confidentiality (“Confidentiality Order”). The Confidentiality Order provides for the confidential treatment of certain materials produced in discovery in this proceeding

(“Confidential Material”) between the parties. The Confidentiality Order also provides that all “Confidential Material which is to be filed with the ALJ or Commission, or materials containing, reproducing, incorporating or otherwise disclosing Confidential Material shall be filed and labeled in accordance with 46 CFR § 502.5.” Thus, under the parties’ Confidentiality Order, documents produced in discovery marked either as “CONFIDENTIAL” and/or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” and filed in this proceeding must be designated as Confidential Material. Further, deposition transcripts and information disclosed therein are deemed Confidential Material for a period of thirty (30) days after the transcript of said deposition is made available, regardless of whether any party has so designated the transcript. The parties also have thirty (30) days, from the date the transcript is made available, to designate information disclosed during the deposition as Confidential Material. As of the date of this filing, the thirty (30) day time period has not yet lapsed for any of the deposition transcripts. Regardless, for depositions of ZIM witnesses, ZIM has undertaken to limit the amount of testimony designated as Confidential Material in its filing. ZIM has, out of an abundance of caution, designated the portions of the deposition transcript of the SEA witness relied upon in support of the Opposition to the Motion as confidential, given that SEA may yet so designate that material.

ZIM’s Opposition to the Motion includes and/or discusses testimony from depositions and information designated by ZIM as Confidential Material. In accordance with the Confidentiality Order and ZIM’s designations, ZIM is marking portions of the exhibits as confidential and seeking confidential treatment. Pursuant to Rule 5(b), ZIM will file confidential and public versions of the Opposition to the Motion.

In addition to the transcript of the deposition of the SEA witness, the material designated as confidential by ZIM falls into two categories:

- 1) Deposition testimony regarding specific dollar amounts paid to ZIM by SEA and other customers which constitutes competitively sensitive information; and
- 2) ZIM's internal U.S. collections policy, a document that ZIM keeps confidential and which reflects ZIM's negotiating strategy with its customers. Disclosure of this strategy would be commercially damaging to ZIM.

For the foregoing reasons, ZIM respectfully requests that the materials and exhibits designated as confidential in the Opposition to the Motion be kept confidential and not disclosed to the public.

Respectfully submitted,

COZEN O'CONNOR

By: s/ Christopher Raleigh

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Dated: June 8, 2023

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8<sup>th</sup> day of June, 2023, a true and correct copy of the foregoing Motion for Confidential Treatment was served via email on all counsel for Samsung Electronics America, Inc. in FMC Docket No. 22-30.

*s/ Christopher Raleigh*