

STATEMENT OF CONSIDERATIONS

PETITION FOR ADVANCE WAIVER OF PATENT RIGHTS BY BALDOR ELECTRIC COMPANY ("BALDOR") UNDER AGREEMENT NO. DE-FG36-08GO180132 BETWEEN BALDOR AND DOE; W(A)-09-030; CH-1479

The Petitioner, BALDOR, has requested a waiver of domestic and certain foreign patent rights for all subject inventions that may be conceived or first actually reduced to practice by BALDOR arising from its participation under the above referenced agreement entitled "Ultra-Efficient and Power Dense Electric Motors for U.S. Industry."

The objective of the project is development of general purpose electric motors that will have higher efficiency than current Premium Efficient induction motors. Compared to current electric motors that meet the efficiency requirements of the 1992 Energy Policy Act, these new motors will have 30% less full-load loss and will be 30% smaller in volume and lighter in weight. The compact, energy efficient motors will be capable of both constant speed and variable speed operation. The project will include motor performance computer simulation development, laboratory prototype demonstrations with motors rated from 50 hp to 200 hp, as well as motor prototype performance verification testing while operating in the real-world.

The total cost of the project is approximately \$2.8 million with the Petitioner providing about 30% cost sharing. This waiver is contingent upon the Petitioner maintaining, in aggregate, the above cost sharing percentages over the course of the agreement.

As noted in its waiver petition, Petitioner has significant experience in many key technologies required for the project. In fact BALDOR has recently developed a number of interior permanent magnets (IPM) prototypes that were specifically designed to operate on a variable speed drives. Furthermore, in 2007 BALDOR acquired Rockwell Automation's electric motor business.

Considering Petitioner's technical expertise and significant investment in this technology including sizable cost sharing in this agreement, it is reasonable to conclude that Petitioner will continue to develop and ultimately commercialize the technology and products which may arise from this agreement.

Petitioner has agreed that this waiver shall be subject to the march-in and preference for U.S. industry provisions, as well as the U.S. Government license, comparable to those set out in 35 U.S.C. 202-204. Further, Petitioner has agreed to the attached U.S. Competitiveness provision paragraph (t). In brief, Petitioner has agreed that products embodying a waived invention or produced through the use of a waived invention will be manufactured substantially in the United States unless the Petitioner can show to the satisfaction of the DOE that is not commercially feasible to do so.

Referring to item 10 of the waiver petition, granting this waiver is not anticipated to have any adverse impact on competition. There are several companies developing

ultra-efficient electric motors and this waiver will allow Petitioner to continue to compete against other electric motor manufacturers, including foreign entities that have low labor costs. If anything, the technology forming the subject matter of the project may stimulate competition.

Considering the foregoing, it is believed that granting this waiver will provide Petitioner with the necessary incentive to invest its resources in the commercialization of the results of the agreement in a fashion which will make the above technology available to the public in the shortest practicable time. Therefore, upon evaluation of the waiver petition and in view of the objectives and considerations set forth in 10 CFR 784, all of which have been considered, it is recommended that the requested waiver be granted.

/Brian J. Lally/

Brian J. Lally

Assistant Chief Counsel

Intellectual Property Law Division

DOE Chicago Office

Date: May 19, 2009

Based upon the foregoing Statement of Considerations and representations in the attached waiver petition, it is determined that the interests of the United States and the general public will best be served by a waiver of patent rights of the scope described above, and therefore the waiver is granted. This waiver shall not apply to any modification or extension of the agreement, where through such modification or extension, the purpose, scope or cost of the agreement has been substantially altered.

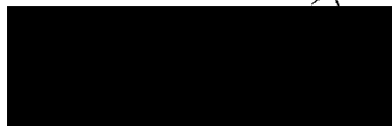
CONCURRENCE:



Douglas E. Kaempf
Program Manager
Office of the Industrial
Technology Program, EE-2F

Date: 3/17/10

APPROVAL:



Paul A. Gottlieb
Assistant General Counsel for Technology
Transfer and Intellectual Property

Date: 3-17-10

WAIVER ACTION - ABSTRACT
W(A)-09-030

<u>REQUESTOR</u>	<u>CONTRACT SCOPE</u>	<u>RATIONALE FOR DECISION</u>
BALDOR	The objective of the project is development of general purpose electric motors that will have higher efficiency than current Premium Efficient induction motors	30% Cost Sharing

(t) U. S. Competitiveness

The Contractor agrees that any products embodying any waived invention or produced through the use of any waived invention will be manufactured substantially in the United States unless the Contractor can show to the satisfaction of the DOE that it is not commercially feasible to do so. In the event the DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., recoupment of the Government's investment, etc. The Contractor agrees that it will not license, assign or otherwise transfer any waived invention to any entity unless that entity agrees to these same requirements. Should the Contractor or other such entity receiving rights in the invention undergo a change in ownership amounting to a controlling interest, then the waiver, assignment, license, or other transfer of rights in the waived invention is suspended until approved in writing by the DOE.