

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES

HONEYWELL INTERNATIONAL, INC.

and

Case 09-CA-327389

STEPHEN FERGUSON, AN INDIVIDUAL

Erik Brinker, *Esq.*, for the General Counsel.
Glenn Grant, *Esq.*, for the Respondent.

Decision

STATEMENT OF THE CASE

Christal J. Key, Administrative Law Judge. By agreement of the parties, this proceeding was tried via Zoom virtual technology on December 2, 2025. On October 3, 2023, Stephen Ferguson filed unfair labor practice charge Case 09–CA–327389 against Honeywell International, Inc. (Respondent). On July 22, 2025, the Regional Director for Region 9 issued the complaint and notice of hearing (the complaint) in this matter.¹ The complaint alleges that Respondent has violated Section 8(a)(1) of the National Labor Relations Act (the Act) by maintaining certain unlawful provisions in its Employee Agreement Relating to Trade Secrets, Proprietary and Confidential Information (Employment Agreement) which Respondent requires employees to sign as a condition of hiring them. It further alleges that Respondent violated Section 8(a)(1) by offering its employees a postemployment Employment Separation Agreement and Release (Severance Agreement) which contains unlawful provisions. After the conclusion of the trial, the General Counsel and Respondent filed briefs, which I have carefully read and considered.

On the entire record, I made the following findings, conclusion of law, and recommendations.

¹ During the hearing counsel for the General Counsel withdrew par. 4(b) of the complaint. (Tr. 10–11.)

FINDINGS OF FACT²

I. JURISDICTION

5 At all material times, Respondent has been a corporation with an office and place of
business in Mason, Ohio, and has been engaged in the development of automated solutions for
warehouses. In conducting its operations, during the 12-month period ending August 1, 2023,
Respondent performed services valued in excess of \$50,000 in States other than the State of Ohio.
10 (GC Exhs. 1(c) and 1(e).)

At all material times, Honeywell International Inc., has been an employer engaged in
commerce within the meaning of Section 2(2), (6), and (7) of the Act. Based on the foregoing, I
find that this dispute affects commerce and that the Board has jurisdiction of this case, pursuant to
15 Section 10(a) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. Background

20 1. Respondent's operations

Respondent is a multinational Fortune 500 corporation that operates several lines of
business in several industries. (R. Br. at 3.) It operates facilities throughout the United States and
the world. (R. Br. at 3.) Its operations produce tens of thousands of products. (Tr. 59.) The
25 products include chemicals, aerospace equipment, quantum computers, and industrial equipment.
(Tr. 59, 69.)

2. Stephen Ferguson's employment history and job functions

Respondent hired Stephen Ferguson at its Mason, Ohio facility in June 2022, as an
advanced project manager. On June 4, 2022, Ferguson signed an Employment Agreement. (Tr.
30 19-20, GC Exh. 2.) Signing the Employment Agreement was a condition of Respondent
employing Ferguson. (Tr. 20, 82, GC Exh. 2 at 4 par. 13.) Ferguson managed a variety of projects
for Respondent. One of those projects was a shoe sorter. (Tr. 23.) While Ferguson worked for
Respondent, the shoe sorter generated about 101 million dollars in revenue and over the life of the
product it was anticipated to generate 300 million dollars in revenue. (Tr. 24.) As a result of a
35 reduction in force, Respondent terminated Ferguson on July 14, 2023. (GC Exh. 3 at 1.) During
his termination meeting, Respondent's human resource staff advised him that they would be
sending him a Severance Agreement. (Tr. 16.) A few days after his termination, Respondent sent
him a Severance Agreement via electronic mail. (Tr. 16, GC Exh. 3.) The Severance Agreement
40 offered Ferguson 4 weeks of pay as well as outplacement services in exchange for, among other
things, Ferguson waiving his right to file any claims related to his termination. Ferguson's decision

² Although I have included several citations in this decision to highlight particular testimony or exhibits in the evidentiary record, I emphasize that my findings and conclusions are not based solely on those specific citations, but rather are based on my review and consideration of the entire record for this case.

whether to sign the Severance Agreement was voluntary. (Tr. 29, 55.) Ferguson testified that he did not sign the agreement because through his own research he felt it was at odds with the “McLaren Macomb” ruling. (Tr. 20–21.)³ Further after speaking with his lawyer he decided not to sign the agreement. (Tr. 31.) Later, Ferguson filed certain charges against Respondent including a charge for race discrimination related to his termination. (Tr. 30.)

B. Employment Agreement and Respondent’s Rationale for its Confidentiality Provision

Paragraph 4(a) of the complaint alleges that since April 6, 2023, Respondent has violated Section 8(a)(1) of the Act by maintaining a provisions in the Employment Agreement entitled Honeywell’s Confidential Information. Continuing at least up through the date of the hearing, Respondent conditioned employment on employees signing the Employment Agreement.⁴ Further, employees continuing to abide by the Employment Agreement is a condition of continued employment, eligibility for raises, and all other benefits including Respondent’s severance plan. The relevant language in the confidentiality provisions states as follows:

...I will not engage without the prior written consent of Honeywell's Law Department, either during the period of time I am/was employed by Honeywell or for a period of two (2) years following my Termination of Employment for any reason, in any activity or employment in the faithful performance of which it could be reasonably anticipated that I would use or disclose Honeywell's Confidential Information....

I understand that I have the right to use or practice any skill or expertise generally associated with my employment but not special or unique to Honeywell, but that I do not have the right to use, practice or disclose Honeywell's Confidential Information for my own benefit or for the benefit of any third party.

"Confidential Information" means any information of a confidential or secret nature that (a) relates to the business of Honeywell or to the business of any parent, subsidiary, affiliate, customer, or vendor of Honeywell, or any other party with whom Honeywell agrees to hold information of such party in confidence; (b) is not generally known to the public or to other persons in the industry; and (c) Honeywell has taken reasonable measures under the circumstances to protect from unauthorized use or disclosure. Confidential Information covered by this

³ I credit Ferguson’s testimony based on his demeanor, because it was not rebutted by any other testimony or evidence, it was logical and he willingly and fully answered both parties’ questions. With regard to why he did not sign his Severance Agreement I find his testimony truthful that he did not sign it because he believed it was at odds with Board caselaw and because he sought the assistance of a n attorney and decided to pursue a race discrimination case rather than waiving all claims related to his termination. Respondent’s senior human resource director David Hanson is the only other witness who testified. I credit Hanson’s testimony. I base my ruling on his demeanor, that his testimony was not rebutted, that it was logical and that he fully answered questions asked by both parties.

⁴ Hanson testified that as of the hearing, he believed Respondent required all employees to sign an Employment Agreement, but it might have only required such of employees it classifies as band 3 and above. (Tr. at 82.) The Employment Agreement states “US—NON-CALIFORNIA” which indicates that it is not used in California. (GC Exh. 2.) The record does not establish when Respondent began having employees sign the Employment Agreements, but the record demonstrates the Agreement which was presented to Ferguson was most recently revised on November 1, 2019. (GC Exh. 2.)

Agreement means (i) trade secrets; (ii) proprietary information that does not rise to the level of a statutorily protectable trade secret that is made the property of Honeywell through positive operation of law in the form of this mutual agreement of the parties; or (iii) information that is otherwise legally protectable. Such Confidential Information includes, but is not limited to, assigned Inventions, knowledge, data, information, know-how, non-public intellectual property rights, including unpublished or pending patent applications and all related patent rights, techniques, formulae, processes, discoveries, improvements, ideas, conceptions, compilations of data, and developments, whether or not patentable and whether or not copyrightable. By way of example, Confidential Information includes: information that is not generally known in the industries in which Honeywell is engaged, which may be disclosed to me or that I may learn, observe, discover or otherwise acquire during, or as a result of, my employment by Honeywell and that includes, without limitation, any information, whether patentable, patented or not, relating to, without limitation, existing or contemplated products, inventions, services, technology, ideas, concepts, designs, patterns, processes, compounds, formulae, programs, devices, tools, compilations of information, methods, techniques, and including information relating to any research, research databases, development, manufacture, purchasing, engineering, knowhow, business plans, marketing plans, sales or market methods, methods of doing business, customer lists, customer usages or requirements, the identities and competencies of Honeywell's employees, financial information, operating and cost data, or supplier information, which is owned or licensed by Honeywell or held by Honeywell in confidence. The foregoing are only examples of Confidential Information.

David Hanson is employed by Respondent as a Senior human resource director. (Tr. 53.) He testified regarding the rationale behind the provisions in Respondent's confidentiality provisions in its Employment Agreement. He testified that Respondent maintains the provisions in order to protect its competitive advantage in the marketplace, to prevent employees from sharing processes developed while working for Respondent with subsequent employers, and to prevent employees from sharing proprietary or confidential product information to the outside or with competitors. (Tr. 65, 69–70, 72.) Hanson testified that Respondent generally keeps confidential the capabilities of its employees to prevent competitors from seeking to hire them away from Respondent at higher salaries. (Tr. 69.) The Employment Agreement does not contain any “savings language” similar to the language in Respondent’s Severance Agreement which is also at issue in this case. (GC Exhs. 2, 3.)

C. Severance Agreement and Respondent’s Rationale for the Relevant Language

When Respondent terminates employees, it proffers its Severance Agreement to them unless they are represented by a labor organization. (Tr. at 82.) It has a standard practice of offering employees between 4 and 26 weeks of pay, depending on their length of service, in exchange for employees signing the Severance Agreement. (Tr. 55.) In rare circumstances, Respondent offers employees more than the standard amount of severance pay. (Tr. 55–56.)

Paragraph 5 of the complaint alleges that since July 14, 2023, Respondent has violated Section 8(a)(1) of the Act by maintaining certain overbroad provisions in its Severance Agreement. The language states in relevant part as follows:

5 Cooperation and Nondisclosure

10 In further exchange for the Consideration you receive under this Agreement and Release, you agree to cooperate fully with the Company in any matters that have given or may give rise to a legal claim against the Company, and of which you are knowledgeable as a result of your employment with the Company. This requires you, without limitation, to (i) make yourself available upon reasonable request to provide information and assistance to the Company on such matters without additional compensation, except for your out of pocket costs, (ii) maintain the confidentiality of all Company privileged information including, without limitation, attorney-client privileged communications and attorney work product, 15 unless disclosure is expressly authorized by the Company's Law Department, and (iii) notify the Company promptly of any requests to you for information from any third party (excluding government entities), related to any pending or potential legal claim or litigation involving the Company, reviewing any such request with a designated representative of the Company prior to disclosing any such information, 20 and permitting a representative of the Company to be present during any communication of such information.

25 Non-Disparagement

30 At no time on or after the date hereof will you make any statement, publicly or privately (other than to your spouse and legal advisors), which would be disparaging (as defined below) to the Honeywell Group, businesses, management, products, customers, strategies, prospects, image, tradecraft, practices, office environment, culture, condition, or reputation or that of directors, employees, officers or members; *provided, however*, that nothing contained in any provision of this Agreement and Release shall preclude you from making any statement in good faith which is required by any applicable law or regulation or the order of a court or other governmental body or initiating or cooperating with any official government investigation. Honeywell typically does not provide references. 35 Rather, Honeywell will typically confirm dates of employment and last job title only, except if required by applicable law, regulation or court order otherwise. For purposes of this Agreement and Release, the term "disparaging" shall mean any statement or representation (whether oral or written and whether true or untrue) 40 which, directly or by implication, tends to create a negative, adverse or derogatory impression about the subject of the statement or representation or which is intended to harm the reputation of the subject of the statement or representation.

Confidentiality

You agree not to disclose or cause any other person to disclose to third parties, including employees of the Company, the terms of this Agreement and Release; provided, however, that you have the right to disclose the terms of this Agreement and Release to your spouse, your financial/tax advisor, your attorney, and in response to a governmental inquiry, including a governmental tax audit or a judicial subpoena, or as otherwise required by law. If you disclose the terms of this Agreement and Release to any of the foregoing, you agree to instruct such persons to maintain the confidentiality thereof. You understand that your breach of this confidentiality provision shall excuse the Company from performing further under this Agreement and Release. You agree that neither this Agreement and Release nor any version of this Agreement and Release shall be admissible in any forum as evidence against the Company or you except in a proceeding to challenge or enforce this Agreement and Release. This Agreement and Release does not constitute an admission of wrongdoing by either party.

The language set forth above appears on pages 5 through 6 of the 21-page Severance Agreement. Page 4 of the Severance Agreement contains the following “savings language” which is printed in bold typeface:

Notwithstanding the foregoing, nothing in this Agreement and Release (or any exhibit or attachment thereto) is intended to or shall be construed to prevent you from (i) filing an administrative charge or otherwise communicating with or reporting possible violations of law to any federal, state or local government office, official or agency; or (ii) reporting any accounting, internal accounting control, or auditing matter to any federal regulatory agency, any federal law enforcement agency, any Member of Congress or any committee or subcommittee of Congress; and (iii) engaging in any activity protected by the Sarbanes-Oxley Act (18 U.S.C. § 1514A) or the National Labor Relations Act.

The Severance Agreement states that if an employee materially breaches the agreement they forfeit or are obliged to repay all, but 10 percent of benefits received under the agreement and must pay Respondent for all their attorneys' fees and other costs incurred as a result of the breach. (GC Exh. 3 at 3, 17.) There is no temporal limitation to the Severance Agreement.

The Severance Agreement incorporated the Employment Agreement into the Severance Agreement. (GC Exh. 3 at 6, Exh. B.) Hanson testified regarding Respondent's business interest in maintaining the relevant provisions in the Severance Agreement. He testified that the reason Respondent included the cooperation and nondisclosure language is that Respondent produces tens of thousands of products and as a result Respondent sometimes faces lawsuits over its products. He testified that Respondent needs to have prior employees, with expertise and knowledge about such products, available to cooperate with Respondent regarding their investigations into such lawsuits. (Tr. 59.) Hanson further testified that the reason the Severance Agreement contains the

cooperation and nondisclosure language was to prevent employees from divulging Respondent’s patented formulas for its products. (Tr. 78.)

III. ANALYSIS

A. *Employment Agreement*

5 1. General legal principles

In *Stericycle Inc.*, 372 NLRB No. 113 (2023), the Board established a two-step test for determining when a facially neutral work rule unlawfully restricts employees from engaging in protected activity. The General Counsel must first demonstrate that the rule “has a reasonable tendency to chill employees from exercising their Section 7 rights.” *Id.* at 3. This is determined by looking at the rule from the viewpoint of an employee who is “subject to the rule and economically dependent on the employer, and who also contemplates engaging in protected concerted activity.” *Id.* If the General Counsel meets this burden, the rule is presumed to be unlawful, “even if a contrary, noncoercive interpretation of the rule is also reasonable.” *Id.* An employer may rebut the presumption by showing that “the rule advances a legitimate and substantial business interest” that it is unable to advance “with a more narrowly tailored rule.” *Id.*

2. Confidential information

The Employment Agreement that Respondent’s employees, including Ferguson, signed as a condition of employment prohibits them from disclosing Respondent’s confidential information, for their own benefit or for the benefit of a third party, without the prior written consent of Respondent’s legal department. The restriction binds employees during their employment with Respondent and for two years after their employment ends. During their employment, employees must abide by the Employment Agreement in order to remain employed and maintain their eligibility for benefits. (GC Exh. 2 at 1.) In defining confidential information the Employment Agreement states it is information that relates to Respondent’s business, is not generally known to the public or other persons in the industry and consists of information which Respondent has taken reasonable measures to protect from unauthorized disclosure. Respondent defines confidential information to include numerous categories of information which do not touch on rights protected by the Act, such as trade secrets, inventions, patents, discoveries, nonpublic intellectual property rights, customer lists, business, and marketing plans. However, Respondent also defines confidential information to include broad and vague types of information such as “knowledge, data, information”... “compilations of data” and “financial information, operating and cost data.” Finally confidential information is defined to include “the identities and competencies of Honeywell’s employees.”

The prohibitions of disclosing “knowledge, data, information”... “compilations of data” “financial information, operating and cost data” would reasonably be understood by an employee contemplating discussing their wages or benefits with a union representative or another employee

to prohibit them from doing so. *Double Eagle Hotel & Casino*, 341 NLRB 112, 114 (2004) (finding a violation of the Act by maintenance of a rule stating: “[y]ou are not, under any circumstances, permitted to communicate any confidential or sensitive information concerning the Company or any of its employees to any nonemployee without approval from the General Manager or the President”), enfd. 414 F.3d 1249 (10th Cir. 2005); see also *Caesars Entertainment*, 362 NLRB 1690, 1691–1692 (2015), citing *Flamingo Hilton–Laughlin*, 330 NLRB 287, 291–292 (1999). Further, the Board has consistently ruled that Section 7 affords protection for employees to engage in communications with a wide range of third parties in circumstances where the communication is related to an ongoing labor dispute and when the communication is not so disloyal, reckless, or maliciously untrue to lose the Act’s protection. *Mclaren Macomb*, 372 NLRB No. 58 (2023), citing *NLRB v. Electrical Workers Local 1229 (Jefferson Standard Broadcasting Co.)*, 346 U.S. 464, 477 (1953). Thus, the Board has ruled that rules such as the one here are overbroad. *MCPC, Inc.*, 360 NLRB 216, 216 (2014) (an employer violates Sec. 8(a)(1) by “maintaining an overly broad confidentiality rule in its employee handbook stating that “dissemination of confidential information within [the company], such as personal or financial information, etc., will subject the responsible employee to disciplinary action or possible termination.”) Further, an employee economically dependent on his employer who contemplates union organizing would reasonably read the provision prohibiting the discussion of the identities of Respondent’s employees to prohibit him from giving a union organizer the names of his coworkers for purposes of union organizing. Section 7 affords employees the right to use for organizational purposes information and knowledge that comes to their attention in the normal course of their work activity, but they are not entitled to use their employer’s private or confidential records. See *Ridgeley Mfg. Co.*, 207 NLRB 193, 196–197 (1973), enfd. 510 F.2d 185 (D.C. Cir. 1975). See also *Rocky Mountain Eye Center, P.C.*, 363 NLRB 325 fn. 1 (2015); and *Gray Flooring*, 212 NLRB 668 (1974). This includes sharing employee information, including lists, rosters, and work schedules with a labor union. *Quicken Loans, Inc.*, 361 NLRB 904 (2014), affirming 359 NLRB 1201 (2013); *Albertsons, Inc.*, 351 NLRB 254, 259 (2007). Thus, General Counsel established that the confidentiality provisions have a reasonable tendency to chill employees from exercising their Section 7 rights.

In arguing that the rule does not touch upon Section 7 rights Respondent points to the Board’s rulings in *Minteq International, Inc.*, 364 NLRB 721, 726 (2016) and *Mediaone of Greater Florida*, 340 NLRB 277, 278 (2003). The rules found lawful in those cases were more narrowly tailored than the rule in this case. Moreover, neither of those cases were decided under the *Stericycle* standard. As discussed above, when considering the rule from the perspective of reasonable employees who are economically dependent on their employer, the rule is facially neutral, yet has a reasonable tendency to chill employees from exercising their Section 7 rights to communicate regarding their personnel-related information.

Respondent argues that the savings language in the Severance Agreement shields the language in the Employment Agreement from violating the Act. (R. Br. at 18.) Respondent’s argument lacks merit. Respondent attaches the Employment Agreement employees sign at the beginning of their employment to the Severance Agreements it proffers to them at the end of their employment. However, employees are subject to the confidentiality restrictions in the Employment Agreement during their employment with Respondent and for 2 years after their

employment ends regardless of whether they sign the Severance Agreement and there is no savings language in the Employment Agreement.⁵

5 The next issue is whether Respondent established that the rule advances a legitimate and substantial business interest that it is unable to advance with a more narrowly tailored rule. Respondent established that Ferguson and its other employees gain access to highly valuable product and patent type information. Ferguson testified that one of the main products he worked on was expected to generate 3 million dollars in revenue for Respondent. David Hanson testified that Respondent maintains the confidentiality provisions in its Employment Agreement in order to protect its competitive advantage in the marketplace, to prevent employees from sharing processes developed while working for Respondent with subsequent employers, and to prevent employees from sharing proprietary or confidential product information to the outside or with competitors. (Tr. 65, 69–70, 72.) He further testified that Respondent keeps confidential the capabilities of its employees to prevent competitors from seeking to hire them away from Respondent at higher salaries. (Tr. 69.) However, the confidentiality provision restricts the disclosure of far more types of information than Hanson testified were the basis for its confidentiality policies. Thus, Respondent did not establish that it was unable to advance its legitimate business interests with a more narrowly tailored rule that would allow employees to discuss the identity of their coworkers with a labor organization, discuss their wages and benefits with each other, a labor organization or with third parties related to labor disputes.

General Counsel established that Respondent violated Section 8(a)(1) of the Act as alleged in paragraph 4 of the complaint.

B. Severance Agreement

25 1. General legal principles

A severance agreement is unlawful if its terms have a reasonable tendency to interfere with, restrain, or coerce employees in the exercise of their Section 7 rights. In determining whether a severance agreement is unlawful, the Board will examine the language of the agreement, including whether any relinquishment of Section 7 rights is narrowly tailored. *McLaren Macomb*, 372 NLRB No. 58, slip op. at 4, 7 (it is immaterial whether the employee accepted or declined the severance agreement). Respondent contends that the Severance Agreement it proffered to Ferguson was lawful because it was voluntary, it sent it to him in a noncoercive atmosphere specifically to his email address days after his termination and he had time to read and consider it. However, the Board specifically ruled that such surrounding circumstances do not shield severance agreements

⁵ The confidentiality provision in the Employment agreement state: “The provisions of this Agreement are consistent with and do not supersede, conflict with, or otherwise alter any employee’s obligations, rights, or liabilities created by existing statute or Executive Order relating to (i) classified information, (ii) communications to Congress, (iii) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (iv) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive Orders and statutory provisions relating to these protections are incorporated into this Agreement and are controlling.” However, I do not find that this language conveys to employees that the Employment Agreement allows them to engage in activities protected by the National Labor Relations Act.

from violating the Act. *Id.*, at 4–5, 8 (2023), overturning *Baylor University Medical Center*, 369 NLRB No. 43 (2020), and *IGT d/b/a International Game Technology* 370 NLRB No. 50 (2020).

2. Confidentiality

5 The confidentiality provision in the Severance Agreement prohibits employees from disclosing the terms of the Severance Agreement with other employees or third parties. In this way, it is similar to the confidentiality provision the Board found unlawful in *McLaren*. In *McLaren* as here, the Severance Agreement allows it to be disclosed to a spouse, financial/tax advisor, attorney or as required by law, but unlike *McLaren*, the provision here allows the disclosure in response to a governmental inquiry. Further the confidentiality provision in the present case must be read in conjunction with the savings clause in the Severance Agreement. The savings clause states in bold lettering that nothing in the Severance Agreement shall be construed to prevent employees from filing an administrative charge or otherwise communicating with or reporting possible violations of law to any Federal, State, or local government office, official or agency or engaging in any activity protected by the National Labor Relations Act. In finding the confidentiality provision in *McLaren* unlawful, the Board relied in part on the fact that the clause at issue would reasonably tend to coerce employees from filing unfair labor practice charges or assisting the Board during an investigation of a provision in that severance agreement. *Id.* slip op. at 10. However, the language in the present Severance Agreement makes it clear that employees have the right to file unfair labor practice charges and communicate with agents of the National Labor Relations Board regarding provisions in the Severance Agreement that they believe to be unlawful under the Act. However, the confidentiality provision in the present Severance Agreement violates the Act despite the savings language for the reasons explained by the Board in *McLaren*. The provision prohibits the subject employee from discussing its terms with current or former coworkers who find themselves in a similar predicament of whether to accept the Severance Agreement. Consider a group of employees Respondent laid off on the same day, who are contemplating whether to sign their respective agreements. The confidentiality provision would discourage them from discussing the terms of their Severance Agreements or from discussing whether, for example, to collectively seek larger severance payments or other modifications to their Severance Agreements. Such discussions unquestionably constitute protected concerted activity. However, employees would be fearful of engaging in such activity because if an employee later signed the Severance Agreement he would have already breached it. Further, as the Board reasoned in *McLaren*, a former employee having signed the agreement would be prohibited from discussing his or her severance agreement with future employees considering signing such agreements. The savings language in the Severance Agreement does not cure the confidentiality provision. The savings language on page 4 of the Severance Agreement says in bold nothing in the agreement prohibits them from engaging in activity protected by the National Labor Relations Act, but the confidentiality provision on page 6 contradicts that language by specifically prohibiting employees from discussing the Severance Agreement with other employees, which is protected by the National Labor Relations Act. Thus, Respondent violated Section 8(a)(1) of the Act by proffering coercive severance agreements to Ferguson and other employees that conditioned the severance payments and other benefits on employees forfeiting statutory rights through an overbroad confidentiality provision without being narrowly tailored.

General Counsel established that Respondent violated Section 8(a)(1) of the Act as alleged in paragraph 5(e) of the complaint.

3. Cooperation and nondisclosure and non-disparagement

The cooperation and nondisclosure provision in the Severance Agreement requires an employee to notify Respondent if any third party, excluding government entities request information related to a pending or potential legal claim involving Respondent and that they get Respondent's permission to disclose such information and permit its representative to be present during any communication of such information. This language restricts employees from engaging in a wide swath of protected concerted or union activity related to providing information to assist an employee, union or other third party from investigating employment related legal claims. For example the language restricts employees from freely providing requested information to a current or former employee, union or lawyer regarding an investigation of an unfair labor practice charge. It would also require an employee to notify Respondent before they engage in protected concerted activity such as providing information related to a class action claim under the wage and hour provisions of the Fair Labor Standards Act or providing information to assist an employee or group of employees with a race or gender discrimination claim. The clause allows employees to provide information to a governmental entity. However, that ignores the fact that unfair labor practice charges as well as other employment related claims almost always require an employee, their lawyer or their union to first secure the cooperation of other employees to investigate the merits of such legal claims before filing them with a governmental entity. Further, the Severance Agreement states that as a penalty for breaching the agreement the employee "must pay reasonable attorneys' fees and all other costs incurred as a result of your breach." (GC Exh. 3 at 3.) Thus, if an employee provided information to a third party without following the requirements of the cooperation and nondisclosure provision and the information they provided resulted in a third-party filing a pay discrimination case the employee could be liable for Respondent's attorneys' fees to defend against the claim and for damages paid out as a result of the claim. Thus, the language in the cooperation and nondisclosure provision has a reasonable tendency to interfere with, restrain, or coerce employees in the exercise of their Section 7 rights.

The non-disparagement provision precludes employees from making public or private statements which disparage Respondent, its businesses, management, strategies, image, practices, office environment, or culture or reputation or that of its directors, employees, officers or members. (GC Exh. 3 at 5-6.) An employee's breach of the provision is subject to the penalties discussed above and it has no temporal limitation. The Board has consistently ruled that Section 7 affords protection for employees to engage in communications with a wide range of third parties in circumstances where the communication is related to an ongoing labor dispute and when the communication is not so disloyal, reckless, or maliciously untrue to lose the Act's protection. *McLaren Macomb*, supra. The language at issue in the present case is similar to that which the Board found unlawful in *McLaren*, which prohibited employees from making statements to employees or the general public, which could disparage or harm its image. *Id.* slip op. at 2, 8. Here as in *McLaren*, there is no temporal scope for the prohibitions and they prohibit statements related to an expansive group of entities and individuals. In finding the provision unlawful the Board in *McLaren* recognized that, "Public statements by employees about the workplace are central to the exercise of employee rights under the Act." *Id.* slip op. at 9. The Board in *McLaren* found the non-disparagement language unlawful because it "place[d] a broad restriction on employee protected Section 7 conduct." *Id.*, at 10. Thus, for the same reasons articulated by the Board in *McLaren*, the non-disparagement language in the present Severance Agreement interferes with employees' Section 7 rights.

In determining the lawfulness of the cooperation and nondisclosure and disparagement provisions I must consider whether the savings language in the Severance Agreement cures the overbroad language in the disparagement and/or cooperation and nondisclosure provisions. The savings language, non-disparagement and cooperation and nondisclosure provisions appear relatively close together in the document and the savings language is prominent because it is printed in bold typeface. The savings language states that nothing in the agreement prevents employees from filing administrative charges or communicating or reporting violations of the law to any governmental entity or from engaging in activity protected by the National Labor Relations Act. The savings language falls short because it gives employees assurances that they can speak with governmental entities, but the cooperation and non-disclosure and non-disparagement provisions place broad restrictions on communications with other employees and third parties which would include labor organizations. While the Severance Agreement specifically advises employees they are allowed to engage in activity protected by the Act, this language offers reassurances of rights only to those readers equipped with the legal acumen to parse its meaning. This ignores the practical reality that “[r]ank-and-file employees do not generally carry lawbooks to work or apply legal analysis to company rules as do lawyers, and cannot be expected to have the expertise to examine company rules from a legal standpoint.” *Stericycle, Inc.* supra slip op. at 15 (2023), quoting *Ingram Book Co.*, 315 NLRB 515, 516 fn. 2 (1994).⁶ For this reason, the Board reads language presented to employees from the position of non-lawyers, rejecting wordsmithing efforts--no matter how carefully crafted--to salvage restrictions on protected conduct with language that assumes knowledge of the law. *Id.*, see also *U-Haul Co. of California*, 347 NLRB 375, 378 (2006), enfd. mem., 255 F. Appx. 527 (D.C. Cir. 2007). The language in the cooperation and nondisclosure and non-disparagement provisions place broad restrictions on employees speaking to other employees or third parties related to litigation or making statements that would disparage Respondent’s image. Take for example an employee subject to the Severance Agreement who is asked by a current employee to join in signing a petition to present to the Occupational Health and Safety Administration stating that they worked in unsafe conditions while employed by Respondent. While signing such a petition in good faith would constitute activity protected by the National Labor Relations Act, a rank-and-file employee would be unlikely to understand that. The employee would reasonably be fearful of joining such a petition because such conduct would reasonably be read as disparaging of Respondent’s image which is prohibited by the non-disparagement clause and because the conduct would involve communication with an employee about a potential legal claim which is restricted by the cooperation and nondisclosure provisions. Further, Respondent has included language on the one hand stating that employees are prohibited from discussing the Severance Agreement with one another, but then contradictory language stating that they may engage in activity protected under the National Labor Relations Act. In these circumstances, the savings language does not cure the overbroad non-disparagement or cooperation and/or nondisclosure provisions. Respondent violated Section 8(a)(1) of the Act by proffering coercive severance agreements to Ferguson and other employees that conditioned the severance payment and other benefits on employees forfeiting statutory rights through overbroad cooperation and nondisclosure and disparagement provisions without being narrowly tailored.

⁶ In *McLaren* the Board stated that it was not relying on its work-rule analysis for evaluating severance agreements. Supra slip op. at 10. However, the Board’s rationale for reading work rules from the perspective of a rank-and-file employee applies equally to severance agreements.

General Counsel established that Respondent violated Section 8(a)(1) of the Act as alleged in paragraphs 5(c) and (d) of the Complaint.

CONCLUSION OF LAW

- 5 1. The Respondent Honeywell International, Inc. is an employer within the meaning of Section 2(2), (6), and (7) of the Act.
2. The Respondent violated Section 8(a)(1) of the Act since about April 6, 2023, and continuing, by maintaining the overly broad Confidential Information policy in its Employee Agreements Relating to Trade Secrets, Proprietary and Confidential Information.
- 10 3. The Respondent violated Section 8(a)(1) of the Act since about July 14, 2023, by proffering to employees Employment Separation Agreements and Releases which contain overbroad, cooperation and nondisclosure, non-disparagement, and confidentiality provisions that have a reasonable tendency to coerce employees in the exercise of their Section 7 rights, and thereafter maintaining such Agreements.
- 15 4. The unfair labor practices committed by the Respondent affect commerce within the meaning of Section 2(6) and (7) of the Act.

20 REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act.

25 The Respondent shall post an appropriate informational notice, as described in the attached appendix. This notice, on a form provided by the Regional Director for Region 9, after being signed by the Respondent’s authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, the Respondent shall distribute the notice electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by Respondent to ensure that the notice is not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed a facility where employees signed or were proffered the Agreements, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at the closed facility at any time since April 6, 2023.

40 In its proposed notice the General Counsel seeks backpay damages for Ferguson. I have not ordered such because I do not find it appropriate. The purpose of a Board remedy is to restore the status quo to the extent possible. Here, Ferguson has filed a race discrimination claim against Respondent regarding his termination. (Tr. 30–32.) Thus, I find that had the Severance Agreement proffered to Ferguson contained none of the provisions found unlawful, the facts demonstrate that he would not have signed the agreement. I find this because the Severance Agreement provided 4 weeks of pay at his regular salary, in part, in exchange for him waving his right to file certain legal

claims against Respondent, including his right to challenge the lawfulness of his termination. (GC Exh. 3 at 3–4.) If I were to order Respondent to pay the 4 weeks of severance pay, Ferguson would receive an undue windfall. He would receive the benefit of the Severance Agreement’s 4 weeks of pay, but not have to sign it or be bound by its terms.

5 Respondent’s Severance Agreement has no temporal limitation. Thus, if I were to require Respondent to provide notice to every employee who is currently bound by such a Severance Agreement, of the changes regarding the unlawful provisions, I would have to order them to notify every employee throughout the United States who has ever signed a Severance Agreement
10 containing the unlawful language. I find such a remedy would not effectuate the purposes and policies of the Act. I have instead limited the employees who Respondent must notify of the changes to employees who signed a Severance Agreement since July 14, 2023, which is the date
15 pled in the complaint. However, my order protects all employees who signed a Severance Agreement with overbroad provisions because it precludes Respondent from taking future actions to enforce the unlawful provisions.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended⁷

20 ORDER

The Respondent, its officers, agents, successors, and assigns, shall

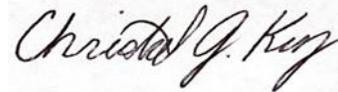
1. Cease and desist from
- 25 (a) Maintaining an Employee Agreement Relating to Trade Secrets, Proprietary and Confidential Information that includes overbroad confidential information provisions.
- (b) Presenting its employees with an Employment Separation Agreement and Release that
30 includes overbroad cooperation and nondisclosure, non-disparagement and confidentiality provisions that have a reasonable tendency to coerce employees in the exercise of their Section 7 rights, or maintaining or enforcing those provisions in the Employment Separation Agreement and Release.
- 35 2. Take the following affirmative action necessary to effectuate the policies of the Act.
- (a) Within 14 days of the Board's order, rescind the portions of its Employee Agreements
40 Relating to Trade Secrets, Proprietary and Confidential Information signed by employees which contain overbroad confidential information provisions and notify current and former employees who are bound by such agreements that the overbroad confidentiality information provisions have been rescinded and that they are null and void and that they will not seek to enforce those portions of the agreements or pursue any penalties, monetary or otherwise, for breaches of the unlawful provisions.

⁷ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes due under the terms of this Order.

5 (b) Within 14 days of the Board's order, rescind the portions of its Employment Separation Agreement and Release signed by employees since July 14, 2023, which contain overbroad cooperation and nondisclosure, non-disparagement and confidentiality provisions and notify such employees that the overbroad portions of the cooperation and nondisclosure, non-disparagement and confidentiality provisions have been rescinded and are null and void and that they will not seek to enforce those portions of the agreements or pursue any penalties, monetary or otherwise, for breaches of those unlawful provisions.

10 (c) Within 14 days after service by the Region, post at its facilities throughout the United States, where its employees have signed or been presented with its Employee Agreement Relating to Trade Secrets, Proprietary and Confidential Information or its Employment Separation Agreement and Release, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 9, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

25 Dated, Washington, D.C. March 10, 2026

30 

Christal J. Key
U.S. Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES
Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose a representative to bargain with us on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

YOU HAVE THE RIGHT to discuss wages, hours and other terms and conditions of employment with other employees and **WE WILL NOT** interfere with your exercise of these rights.

WE WILL NOT require you as a condition of being hired or of continued employment or benefits to sign any agreement that includes a provision prohibiting you from discussing confidential information without the prior written consent of our law department or which prohibits you from disclosing confidential information with other employees or third parties for your own benefit or for the benefit of any third party when confidential information is defined broadly to include compilations of information, identities and competencies of our employees, financial information, and operating and cost data.

WE WILL NOT present maintain, enforce or give effect to, the portions of our Employment Separation Agreement and Release which contain: 1) an overbroad confidentiality provision which prohibits you from disclosing to third parties and other employees the terms of the agreement; or 2) an overbroad non-disparagement provision which prohibits you from publicly or privately making statements which would be disparaging of our practices, office environment, culture, condition, or reputation or that of directors, employees, officers or members where disparaging is defined broadly as tending to create a negative impression about the subject of the statement or representation; or 3) an overbroad cooperation and nondisclosure provision which requires you to make yourself available and provide any information and assistance regarding any legal claim against us, notify us of any requests for information from third parties including current or former employees relating to pending or potential legal claims or litigation and review such information with us prior to disclosing it and permitting our representative to be present during any such communications with other employees or third parties.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL rescind the overbroad portions of the confidential information provisions of our Employee Agreement Relating to Trade Secrets, Proprietary and Confidential information and notify current employees and former employees who are bound to such an Agreement because they left our employment in the last two years or as a result of signing our Employment Separation Agreement and Release since April 6, 2023, that the overbroad portions of the Agreement have been rescinded and are null and void and that we will not seek to enforce those portions of the Agreement or pursue any penalties, monetary or otherwise, for breaches of those unlawful provisions.

WE WILL rescind the overbroad portions of the cooperation and nondisclosure, non-disparagement and confidentiality provisions in the Employment Separation Agreement and Release and notify employees who have signed such an agreement since July 14, 2023, that the overbroad provisions have been rescinded and are null and void and that we will not seek to enforce those portions of the agreements or pursue any penalties, monetary or otherwise, for breaches of those unlawful provisions.

HONEYWELL INTERNATIONAL, INC.

(Employer)

Dated: _____ By: _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation, and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

If you wish to contact an NLRB agent, you may call the Board's toll-free number 1-844-762-6572 or contact the Board's Region 9 office at 550 Main St., Rm 3-111, Cincinnati, Ohio 45202-3271, Tel: 513-684-3686, Hours 8:00-4:30 p.m.

The Administrative Law Judge's decision can be found at <https://www.nlr.gov/case/09-CA-327389> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940



THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE
OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY
OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE
WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S
COMPLIANCE OFFICER, (513) 684-3686.