UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD. AND
SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioners,

v.

MANUFACTURING RESOURCES INTERNATIONAL, INC.
Patent Owner

Case No. IPR2023-00254
U.S. Patent No. 10,506,740

PETITIONERS' UNOPPOSED MOTION AND RENEWED MOTION TO SEAL

Petitioners Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc., (collectively, "Samsung") respectfully request that the Board seal Petitioners' Reply to Patent Owner's Response ("Petitioners' Reply") (Paper 28) and Exhibits 1035 and 1038 and renew the request that the Board seal Patent Owner Manufacturing Resources International's ("MRI") Patent Owner's Response ("POR") (Paper 17) and Exhibits 2029–32, 2038, and 2040–43, which contain Samsung's confidential research, development, and commercial information. On December 11, 2023, the Board denied, without prejudice, Patent Owner's unopposed Motion to Seal (Paper 18). *See* Paper 25. Samsung addresses the issues raised in the Board's Order and moves to seal its own confidential information. MRI does not oppose Samsung's motion.

In determining whether to grant a Motion to Seal, the Board must find "good cause" to seal the information in question and "strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." 37 C.F.R. § 42.54(a); Consolidated Trial Practice Guide Nov. 2019 at 19. This "good cause" standard "reflects the strong public policy for making all information in an *inter partes* review open to the public." Paper 25 at 6–7 (quoting *Argentum Pharmaceuticals LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3 (PTAB January 19, 2018) (informative)). To establish "good cause" for sealing, the movant must establish:

> (1) the information sought to be sealed is truly confidential;
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> (2) a concrete harm to the party to whom the information is confidential upon public disclosure of that information;
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> (3) there exists a genuine need by the party submitting the information sought to be sealed to rely, at trial, on the specific information sought to be sealed; and
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> (4) on balance, the interests in maintaining confidentiality outweighs the strong public interest in having an open record.

Id. As described in the *Consolidated Trial Practice Guide*, the Board identifies confidential information in a manner "consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information." *Id.*

As set forth below, good cause exists for sealing. First, the information that Samsung seeks to seal is confidential. It is either confidential research and development or commercial information related to Samsung's products or third-party confidential information, as explained below. This information is also subject to a Protective Order in the International Trade Commission investigation regarding the '740 Patent (the "ITC proceeding"). *See Certain Outdoor and Semi-Outdoor Electronic Displays, Products, Products Containing Same, and Components Thereof*, Inv. No. 337-TA-1331. Second, public disclosure of Samsung's confidential information would competitively harm Samsung's business prospects and put Samsung at a competitive disadvantage relative to its competitors. Third,

MRI relies on some of the confidential information contained within the exhibits filed with its POR in support of its secondary considerations arguments. While Samsung does not address herein whether there is a genuine need by MRI to submit this information in support of its POR, it has addressed the merits of such evidence in its Petitioners' Reply. Samsung relies on the confidential information in its Reply and in Exhibits 1035 and 1038 to rebut MRI's secondary considerations arguments. Fourth, as set forth below, maintaining the confidentiality of this information outweighs the public interest in accessing it, particularly because the public is able to understand the arguments from the public filings without accessing Samsung's confidential business and financial information. As such, good cause exists to seal the confidential versions of the POR, Petitioners' Reply, and Exhibits 1035, 1038, , 2029–32, 2038, and 2040–43.

Samsung publicly filed a redacted version of its Petitioners' Reply, which it has revised and re-filed as explained below, and Exhibits 1035 and 1038. Samsung provided MRI redacted versions of Exhibits 2029–32, and 2038 as well as revised redactions to the POR.[1] These redactions are narrowly tailored to protect Samsung's confidential information from public disclosure.

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[1] MRI did not previously file public versions of Exhibits 2016, 2029–32, and 2038. Samsung does not seek to seal the revised public version of Exhibit 2016 filed by

Patent Owner's Response

The POR (Paper 17) contains Samsung's confidential information, including references to confidential exhibits that discuss technical and business information. MRI will be filing a replacement public, redacted version of the POR with more narrowly tailored redactions than Paper 19. The redacted information is "confidential research, development, [and] commercial information" pursuant to FRCP 26(c)(1)(G). Specifically, and as described below with respect to specific exhibits, the POR includes multiple references to Samsung's research, development, and testing processes, competitor analysis, and references to confidential business information such as sales and financial information. Public disclosure of such information would harm Samsung because insight into its technical and development processes and releasing confidential technical and business information would provide a competitive advantage to Samsung's competitors to Samsung's detriment. Therefore, good cause exists to seal the confidential version of the POR.

Petitioners' Reply

Petitioners' Reply (Paper 28) contains Samsung's confidential information and references to confidential exhibits that discuss technical and business

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MRI, which should replace the sealed version. The only information redacted from the public version of Exhibit 2016 is the confidentiality header.

information. Samsung previously filed a public, redacted version of Petitioners' Reply. Paper 29. The parties have since conferred, and Samsung is filing a revised version of Petitioners' Reply with more limited redactions.

The redacted information pertaining to Samsung is "confidential research, development, [and] commercial information" pursuant to FRCP 26(c)(1)(G). Specifically, and as described below with respect to specific exhibits, Samsung's Reply includes references to Samsung's confidential business information including competitor analysis and sales information. *See* Paper 29 at 19-20. Public disclosure of such information would harm Samsung because releasing confidential technical and business information such as Samsung's unit sales for particular models, would provide a competitive advantage to Samsung's competitors to Samsung's detriment.

Samsung relies on this information to rebut MRI's contentions concerning secondary considerations. The parties' arguments, however, may be understood from the Reply without access to this confidential information.

Therefore, good cause exists to seal the confidential version of the Reply.

Exhibit 1035

Exhibit 1035 is the November 13, 2023 Final Initial Determination ("FID") in the related ITC proceeding. Exhibit 1035 contains Confidential Business Information ("CBI") from both MRI and Samsung, including confidential business and technical information. In particular, there is substantial confidential information

in the sealed FID regarding technical details of Samsung's products. Samsung cites the FID to allow for the Board's consideration of the ALJ's findings on the same or similar invalidity arguments before the ITC.

The FID was sealed in the ITC proceeding. Samsung filed a public, redacted version of Exhibit 1035, which is the same public version of the FID filed on the ITC docket. The parties took care to limit the redactions to only those items of information deemed Confidential Business Information under the Protective Order in the ITC proceeding. These limited redactions do not hinder a reader's understanding of the material. Indeed, the ALJ instructed that the "[r]edactions should be limited to avoid obscuring the reasoning underlying the decision." Ex. 1035, 321 n.137. Releasing the redacted portions of the FID will harm both Samsung and MRI by providing an advantage to their competitors.

Therefore, good cause exists to seal the confidential version of Exhibit 1035.

Exhibit 1038

Exhibit 1038 is an excerpt from Sungsu Lee's hearing testimony in the related ITC proceeding. This testimony was given on the confidential hearing record and is marked CBI subject to the Protective Order entered into in the ITC proceeding. Samsung filed a public version of Exhibit 1038.

The confidential information redacted from Exhibit 1038 contains details pertaining to Samsung's confidential research and development work. Specifically,

the limited redacted information in Exhibit 1038 relates to technical details regarding Samsung's product and confidential competitor analysis. *See, e.g.*, Exhibit 1038 at 611:9–11, 613:21–23, 614:5–7, 614:23–25. Public disclosure of this information would harm Samsung because insight into its technical and development processes and releasing confidential technical information about its products would provide a competitive advantage to Samsung's competitors to Samsung's detriment.

Samsung relies on this exhibit to rebut MRI's copying argument. Paper 28 at 20-21. Access to the confidential information is not necessary for the public to understand Samsung's argument. *See* Paper 29 at 20-21.

Therefore, good cause exists to seal the confidential version of Exhibit 1038.

Exhibits 2029–32

Exhibits 2029–31 are deposition transcripts of current and former Samsung employees taken in the related ITC proceeding. Exhibit 2032 is an excerpt of the deposition transcript of third-party John Palmer taken in the related ITC proceeding. These transcripts were all marked CBI subject to the ITC protective order. MRI is filing redacted versions of these exhibits provided by Samsung.

Exhibit 2029 is an excerpt of the deposition transcript of Sung Ki Kim. The limited redacted information contains details pertaining to "confidential research, development, [and] commercial information" pursuant to FRCP 26(c)(1)(G). Specifically, Exhibit 2029 includes information regarding Samsung's product

development, design and material choices, and competitor analysis. *See, e.g.*, Exhibit 2029 at 46–48, 51–53, 139.

Exhibit 2030 is an excerpt of the deposition transcript of Sungsu Lee. The limited confidential information redacted from Exhibit 2030 contains "confidential research, development, [and] commercial information" pursuant to FRCP 26(c)(1)(G). Specifically, Exhibit 2030 includes confidential information about Samsung's product development and market analysis. *See, e.g.*, Exhibit 2030 at 190.

Exhibit 2031 is an excerpt of the deposition transcript of Wunkil Lee. The confidential information redacted from Exhibit 2031 is limited to a single reference to a confidential competitor analysis. *See, e.g.,* Exhibit 2031 at 78:11.

Exhibit 2032 is an excerpt of the deposition transcript of third-party John Palmer. The redacted information is third-party Palmer's confidential sales information. *See, e.g.*, Exhibit 2032 at 119:18–20. Palmer did not authorize disclosure of its information in these proceedings. Samsung is not authorized to disclose third party confidential information without consent.

Public disclosure of the information in Exhibits 2029–31 would harm Samsung because insight into its product design choices and competitor analyses would provide a competitive advantage to Samsung's competitors to Samsung's detriment. Further, public disclosure of the information in Exhibit 2032 would harm

third-party Palmer because releasing this information would provide a competitive advantage to Palmer's competitors at Palmer's detriment.

MRI relies on these exhibits to purportedly support its secondary considerations arguments. *See* Paper 17 at 57-58, 61, 67. The public versions of Exhibits 2029–32 include narrowly tailored redactions that do not detract from understanding MRI's arguments. MRI also does not rely on Palmer's sales information in support of any of its secondary considerations arguments. Accordingly, the information redacted from Exhibit 2032 is not relevant and the public does require access to this information to understand the parties' arguments in the proceeding.

Therefore, good cause exists to seal the confidential versions of Exhibits 2029–32.

Exhibit 2038

Exhibit 2038 is a confidential marketing and technical presentation slide deck created by Samsung. The presentation was marked CBI under the ITC protective order. In addition, the slides are marked "Confidential" in their upper right corner. MRI cites approximately 4 of the 178 pages in Exhibit 2038 in support of its purported secondary considerations of non-obviousness. MRI is filing a redacted version of this Exhibit provided by Samsung.

The information redacted from Exhibit 2038 includes technical and commercial information, including research and testing information and marketing and business strategies regarding Samsung's products. Public disclosure of this information would harm Samsung because insight into its design choices, testing methods and information, and releasing confidential commercial information would provide a competitive advantage to Samsung's competitors to Samsung's detriment.

Samsung has redacted the information in this extensive document that is not cited or relied upon by MRI in its POR as the potential harm to Samsung outweighs any public interest in accessing such information where it is not relevant to the parties' arguments in this proceeding. For the pages within Exhibit 2038 cited or relied upon in MRI's POR, Samsung has proposed limited redactions.[2]

Therefore, good cause exists to seal the confidential version of Exhibit 2038.

Exhibit 2040

Exhibit 2040 is a spreadsheet containing Samsung's highly sensitive non-public financial information including units sold and revenue information for its

[2] Samsung has provided the same redactions for this Exhibit 2038 in IPR2023-00199, IPR2023-00220, IPR2023-00221, IPR2023-00254, IPR2023-00255 to account for all of the pages cited by MRI across these proceedings (26 of 178 pages).

outdoor and semi-outdoor displays. The spreadsheet was marked CBI subject to the ITC protective order.

Samsung requests that the Board maintain Exhibit 2040 under seal. Samsung guards such information closely and has not made, and does not intend to make, this information publicly available. Public disclosure of this information would harm Samsung because insight into its global units sold and revenue information and release of sensitive financial information would provide a competitive advantage to Samsung's competitors to Samsung's detriment.

MRI relies on portions of Exhibit 2040 to argue alleged post-copying commercial success. Samsung's exact sales figures and financial information are not needed to understand MRI's argument.

Therefore, good cause exists to maintain Exhibit 2040 under seal.

Exhibit 2041

Exhibit 2041 is a Samsung internal document entitled "Market Requirements Document" for "Outdoor LCD Signage." Exhibit 2041 contains Samsung's confidential market research and projections, as well as product features and commercial planning for Samsung's outdoor displays. The Exhibit was marked CBI subject to the ITC protective order.

Samsung requests that the Board maintain Exhibit 2041 under seal. Samsung guards such information closely and has not made, and does not intend to make, this

information publicly available. Public disclosure of this information would harm Samsung because insight into its business and marketing strategies and releasing confidential commercial information would provide a competitive advantage to Samsung's competitors to Samsung's detriment.

MRI cites Exhibit 2041 in support of its secondary considerations arguments, including commercial success. However, MRI only cites two pages (29–30) of this Exhibit in its arguments, which provide specific figures concerning Samsung's market share. Disclosure of these specific figures are not needed for the public to understand MRI's arguments.

Therefore, good cause exists to maintain Exhibit 2041 under seal.

Exhibit 2042 and Exhibit 2043

Exhibit 2042 is a presentation slide deck discussing Samsung's technical information, analyses, testing, and confidential competitor analysis. For example, Exhibit 2042 contains technical research and testing information, including material analysis and other similar proprietary technical information about Samsung's products. Exhibit 2043 includes photographs concerning Samsung's confidential competitor analysis. These documents were marked CBI subject to the ITC protective order.

Samsung requests that the Board maintain Exhibits 2042 and 2043 under seal. Samsung guards such information closely and has not made, and does not intend to

make, this information publicly available. Public disclosure of this information would harm Samsung because insight into its technical analysis and testing processes and releasing confidential technical information about its products and its competitor analysis would provide a competitive advantage to Samsung's competitors to Samsung's detriment.

MRI cites Exhibit 2042 to purportedly support its copying arguments. MRI does not rely on any specific information in Exhibits 2042 and 2043 but rather cites generally to the existence of these documents to support its copying argument. The specific testing results, technical analysis, and photographs, however, are not needed to understand MRI's argument.

Therefore, good cause exists to maintain Exhibits 2042 and 2043 under seal.

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The information redacted from the public versions of the POR, Petitioners' Reply, Exhibits 1035 and 1038, and the information proposed to be redacted from Exhibits 2029–32, 2038, and 2040–42 are not essential to an understanding of the POR and Petitioners' Reply and does not impede the public's understanding of the file history of this proceeding. MRI's public filing sets forth its argument regarding secondary considerations of non-obviousness by discussing Samsung's confidential research and development timeline and activities, and confidential business information such as marketing, sales, and financial information. *See* Paper 17 at 60–

62, 64–67. The limited and specific information Samsung seeks to seal is not needed to understand the parties' arguments. This type of information is routinely sealed in IPR proceedings. *See, e.g.*, *3M Co. v. Bay Materials, LLC*, IPR2022-01214, Paper No. 48 at 3-5 (Sept. 27, 2023) (granting parties' motions to seal exhibits including financial and sales data, proprietary technical and testing information, and customer information); *Apple Inc. v. Masimo Corp.*, IPR2022-01299, Paper No. 27 at 2 (Feb. 17, 2023) (granting Patent Owner's motion to seal exhibits relating to Patent Owner's "contentions of objective evidence of non-obviousness, including its arguments of nexus between its commercial products and the challenged claims"); *Regeneron Pharmaceuticals, Inc. v. Novartis Pharma AG*, IPR2021-00816, Paper No. 105 at 3 (Jul. 8, 2022) (granting motion to seal documents containing "confidential research and development information" and "confidential commercial and financial information"). Here, Samsung's interest in maintaining its proprietary research, development, testing, and financial information, and third party information as confidential outweighs the public's interest in accessing this information for the purposes of patentability of the challenged claims in this proceeding. Accordingly, Samsung respectfully requests that the Board grant Petitioners' Motion to Seal the POR (Paper 17), Petitioners' Reply (Paper 28), and Exhibits 1035, 1038, 2029–32, 2038, and 2040–43.

Dated: January 12, 2024

/ Sanjeet K. Dutta /

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CERTIFICATE OF NON-PUBLICATION

The undersigned hereby certifies that to the best of Samsung's knowledge, the information sought to be sealed by this Motion has not been published or otherwise made publicly available.

Date: January 12, 2024

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CERTIFICATE OF SERVICE

A copy of this Petitioners' Motion and Renewed Motion to Seal together with the public version of the Petitioners' Reply has been served on counsel for Patent Owner upon the following addresses as listed in Patent Owner's Mandatory Notices:

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