

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CURRENT LIGHTING SOLUTIONS, LLC d/b/a GE CURRENT,
Petitioner,

v.

JIAXING SUPER LIGHTING ELECTRIC APPLIANCE CO., LTD.,
Patent Owner.

IPR2023-00271
Patent 10,295,125

**PETITIONER'S MOTION TO SEAL
PETITIONER'S PRELIMINARY REPLY AND
RELATED EXHIBITS 1028, 1030, AND 1031**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner moves to seal its Preliminary Reply to Patent Owner's Preliminary Response and related confidential Exhibits 1028, 1030, and 1031 ("Confidential Exhibits"). Consistent with the Protective Order of Paper 8, a public, redacted version of the Preliminary Reply and Ex. 1031 has also been filed.

I. REQUEST TO SEAL

A. Governing Rules and PTAB Guidance

Under 35 U.S.C. § 316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public, but a party may file a concurrent motion to seal and the information at issue is sealed pending the outcome of the motion. In particular, 37 C.F.R. § 42.14 provides:

The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.

It is, however, only "confidential information" that is protected from disclosure. 35 U.S.C. § 316(a)(7) ("The Director shall prescribe regulations . . . providing for protective orders governing the exchange and submission of confidential information"). In that regard, the *Office Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012) provides:

The rules aim to 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.

* * *

Confidential Information: The rules identify 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. § 42.54.

Ultimately, “[t]he standard for granting a motion to seal is ‘good cause,’” which “includes showing that the information addressed in the motion is truly confidential, and that such confidentiality outweighs the strong public interest in having an open record.” *See Grimco, Inc. v. Principal Lighting Grp., LLC*, IPR2021-00968, Paper 46 at 3 (PTAB Nov. 18, 2022); 37 C.F.R. § 42.54; *Office Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

B. The Confidential Information

Exhibit 1028 is a non-public purchase order of Petitioner that includes terms, including quantities and amounts, that are competitively sensitive. Exhibit 1030 is a summary of non-public purchase information of Petitioner that includes identification of third-party suppliers and quantities of products that are competitively sensitive. Exhibit 1031 is a declaration from Petitioner that contains descriptions of and citations to competitively sensitive information in Exhibits 1028

and 1030. The confidential information also includes portions of Petitioner's Preliminary Reply that contains descriptions of and citations to the Confidential Exhibits.

C. Good Cause Exists for Sealing the Confidential Information

There is good cause to seal the Confidential Exhibits and redacted portions of the Preliminary Reply, which describe or cite to the Confidential Exhibits. First, the redacted portions of the Preliminary Reply and Ex. 1033 contain information that is truly confidential—i.e., nonpublic, competitively sensitive business information of Petitioner, and documents reflecting the same. The Confidential Exhibits were accordingly designated “PROTECTIVE ORDER MATERIAL-OUTSIDE COUNSEL ONLY” under the Paper 8 Protective Order. Petitioner certifies that, to the best of its knowledge, the redacted information concerning these documents and their contents in the Preliminary Reply has not been published or otherwise been made public.

Second, confidentiality outweighs the public interest in a public record because the discussed information “ha[s] to do with confidential financial, commercially-sensitive, and/or business information” of Petitioner. *See Grimco*, IPR2021-00968, Paper 46 at 3-4. The Confidential Exhibits contain competitively sensitive business information of Petitioner, and public disclosure of this information would competitively harm Petitioner.

II. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that the Board grant this motion to seal.

Dated: June 21, 2023

Respectfully submitted,

/Eagle H. Robinson/

Eagle H. Robinson (Reg. No. 61,361)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on June 21, 2023, a copy of Petitioner's Motion to Seal Petitioner's Preliminary Reply and Related Exhibits 1028, 1030, and 1031 was served on Patent Owner via email (by consent) to: IPRSuperLighting-GECurrent@perkinscoie.com

/Eagle H. Robinson/

Eagle H. Robinson (Reg. No. 61,361)