

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOX, INC. and DROPBOX, INC.,
Petitioner,

v.

TOPIA TECHNOLOGY, INC.,
Patent Owner.

IPR2023-00427 (Patent 9,503,498 B2)
IPR2023-00433 (Patent 9,143,561 B2)

Before THOMAS L. GIANNETTI, CHARLES J. BOUDREAU, and
JOHN R. KENNY, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

DISCUSSION

The Board received an email dated March 6, 2024, from Patent Owner's counsel, requesting a conference call to request authorization to file a motion to modify, for good cause, the Protective Order (Paper 9) in each of these proceedings. The requested modification would permit use of two exhibits (Exhibits 1029 and 2018) in the parallel pending district court proceeding between Patent Owner and Egnyte, Inc. (*Topia Technology, Inc. v. Egnyte, Inc.*, C.A. No. 21-1821-CJB (D. Del.)). The two exhibits in question are, respectively, a declaration by Petitioner's counsel, Heidi L. Keefe, and the transcript of Ms. Keefe's deposition in these proceedings. Both exhibits have been designated as Confidential-Attorneys Eyes Only under the Protective Order in each of these proceedings. Petitioner opposes the request to modify the Protective Orders.

The Board held a conference with counsel for the parties to discuss the proposed motion on March 12, 2024.¹ After hearing from the parties on the matter, the Board has determined to authorize filing of the motion.

ORDER

It is, therefore,

ORDERED that Patent Owner is authorized to file a motion of no more than ten pages to modify the Protective Order in these proceedings to permit Exhibits 1029 and 2018 to be used in *Topia Technology, Inc. v. Egnyte, Inc.*, C.A. No. 21-1821-CJB (D. Del);

¹ Judges Giannetti, Boudreau, and Kenny participated in the conference; Petitioner was represented by Heidi Keefe, Samuel Whitt, and Lowell Mead; and Patent Owner was represented by Raja Saliba, L. Roman Rachuba, and Janvi Shah.

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FURTHER ORDERED that Patent Owner's motion is due in each proceeding by March 25, 2024;

FURTHER ORDERED that Petitioner is authorized to file a reply to Patent Owner's motion in each proceeding, due eleven calendar days after receipt of Patent Owner's motion;

FURTHER ORDERED that substantially the same motion and reply shall be filed in each proceeding;

FURTHER ORDERED that Patent Owner's motion must demonstrate why there is good cause to grant the modification, including the proposed use of the exhibits in the district court action;

FURTHER ORDERED that the parties are to address what effect, if any, the availability of, and the issuance of, a subpoena to obtain the documents in the district court action should have on deciding the motion and whether it would be better for the Board or the district court to decide whether the documents at issue should be available for use in the litigation; and

FURTHER ORDERED that no further briefing on the motion is authorized at this time.

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