

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION AND AFFIRMED NETWORKS, INC.,
Petitioners,

v.

LEMKO CORPORATION,
Patent Owner.

Case No. IPR2023-00529
U.S. Patent No. 7,653,414

PETITIONERS' MOTION TO SEAL

Under 37 CFR §§ 42.14 and 42.54, Petitioners Microsoft Corporation and Affirmed Networks, Inc. submit this Motion to Seal its Petitioners' Reply Brief and Exhibit 1022, which are being filed under seal concurrently with this Motion. Petitioners designate its Reply Brief and Exhibit 1022 as "PROTECTIVE ORDER MATERIAL" pursuant to paragraph 1 of the Default Protective Order. *See* Ex. 2054.

I. GOOD CAUSE EXISTS FOR SEALING PETITIONERS' REPLY BRIEF AND EXHIBIT 1022

The Office Patent Trial Practice Guide provides that "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." 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012). Those 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." *Id.* (citing 37 C.F.R. §42.54).

Petitioners' Reply Brief cites Patent Owner's Exhibits 2037 and 2038, which Patent Owner's counsel designated CONFIDENTIAL. Petitioners' Reply brief cites to a small portion of Dr. Cooklev's deposition transcript (Ex. 1022), which addresses Exhibit 2037 (pages 76-80). *See* Paper 19. Pursuant to 37 CFR § 42.63(a), Petitioner's Reply Brief cites Exhibits 1022, 2037 and 2038 and therefore has been filed under seal for that reason as well. Petitioners submit that it is Patent

Owner's burden to establish the need to seal Exhibits 2037 and 2038 as well as portions of Dr. Cooklev's deposition (Exhibit 1022), along with Petitioners' Reply citing to these exhibits.

II. CERTIFICATION OF NON-PUBLICATION

To the best of Petitioners' knowledge, the information sought to be sealed by this Motion has not been published or otherwise made publicly available.

III. PROTECTIVE ORDER

Petitioners designate its Reply Brief and Exhibit 1022 as "PROTECTIVE ORDER MATERIAL" pursuant to paragraph 1 of the Default Protective Order. *See* Ex. 2054.

IV. CERTIFICATION OF MEET AND CONFER

Pursuant to 37 CFR §42.54, Petitioner has met and conferred as to a protective order. *See* Paper 19. Patent Owner has confirmed that they do not oppose Petitioner's motion to seal. Petitioners will further meet and confer with Patent Owner in connection with filing a redacted version of its Reply Brief and Exhibit 1022.

V. CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Board seal and protect the confidential information contained in Petitioners' Reply Brief and portions of Exhibit 1022, and that the Reply Brief be treated as confidential consistent with the manner in which cited Exhibits 2037 and 2038 were produced.

Dated: March 28, 2024

Respectfully submitted,

/s/ Matthew Hopkins /

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R § 42.6, that on March 28, 2024, a complete copy of **PETITIONERS' MOTION TO SEAL** was served upon the following, by Electronic Mail:

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