UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HUM INDUSTRIAL TECHNOLOGY, INC.
Petitioner

v.

AMSTED RAIL COMPANY, INC.
Patent Owner

Case IPR2023-00539
Patent No. 9,981,673

Before JAMES P. CALVE, KEVIN W. CHERRY, and MICHAEL L. WOODS, *Administrative Patent Judges.*

PETITIONER'S MOTION TO SEAL UNREDACTED VERSION OF REPLY TO PATENT OWNER'S RESPONSE

Petitioner Hum Industrial Technology, Inc. hereby moves to seal the unredacted version of Petitioner's Reply to Patent Owner's Response in accordance with the Default Protective Order (EX2159).

I. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

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. 48756, 48760 (Aug. 14, 2012). Further, 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).

Petitioner's Reply quotes from Patent Owner's Exhibits: EX2100, EX2097, EX2093, EX2146, EX2147, EX2150, EX2151, EX2152, and EX2051. Each of these exhibits were marked "Protective Order Material" and filed under seal by Patent Owner for the reasons stated in Patent Owner's Motion to Seal (Paper No. 19).

Petitioner believes that the public interest will not be harmed by the sealing of its Reply. The publicly available Reply has been redacted "to the minimum amount necessary to protect confidential information," and "the thrust of the

underlying argument [and] evidence" is "clearly discernible" from the redacted version. *Patent Trial and Appeal Board Consolidated Trial Practice Guide November 2019*, 91–92. Neither party's ability to raise its claims or defenses will be harmed by the sealing of the Reply.

II. CERTIFICATION OF CONFERENCE

Petitioner has in good faith conferred with Patent Owner concerning the information filed under seal. Petitioner understands that both parties consent to entry of the Default Protective Order (EX2159), and Petitioner does not oppose Patent Owner's Motion to Seal (Paper No. 19).

III. CONCLUSION

Petitioner respectfully requests that this motion be granted, and that the unredacted version of Petitioner's Reply to Patent Owner's Response remain under seal in accordance with the Default Protective Order (EX2159).

Respectfully submitted,

Dated: January 11, 2024

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January, 2024, the foregoing was served via electronic mail to the attorneys of record for the '673 Patent at the following address:

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