

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VANTAGE SPECIALTY CHEMICALS, INC.,
Petitioner,

v.

CARGILL, INCORPORATED,
Patent Owner.

Case IPR2023-00589
Patent 11,248,245

JOINT MOTION TO SEAL SUR-REPLY

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner, Cargill, Incorporated (“Cargill”), and Petitioner, Vantage Specialty Chemicals, Inc. (“Vantage”), collectively, the “Parties,” respectfully and jointly request the Board to authorize the filing under seal of Patent Owner’s Sur-reply on April 10, 2024.

The Board granted entry of the Parties’ Proposed Protective Order on March 8, 2024. Paper No. 38. Thus, the Protective Order Appended to Paper 31 as Appendix A governs the handling of confidential information in this proceeding.

In determining whether to grant a Motion to Seal, the Board must find “good cause” 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); 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). “Confidential information means trade secret or other confidential research, development, or commercial information.” 37 C.F.R. § 42.2.

Good cause exists to seal the Patent Owner’s Sur-reply. *See, e.g., Telebrands Corp. v. Tinnus Enterprises, LLC*, No. PGR2015-00018, Decision on Motion to Seal (Paper 41) at 2 (Good cause to seal is warranted when documents “contain ‘sensitive business information’ or discuss other exhibits that contain sensitive information.”); *see also Wright Medical Technology, Inc. v. Biomedical Enterprises, Inc.*, IPR2015-00786, Decision on Motion to Seal (Paper 37) at 2 (The Board granted motion to seal on documents containing “descriptions of Patent

Owner’s manufacturing details” and “deposition transcripts of...employees that discuss business strategies, corporate management details, or product designs, testing, or manufacturing details that [one party] has deemed to be confidential.”). The Parties seek to seal less than two paragraphs of the Patent Owner Sur-reply, specific to Patent Owner’s responsive arguments on secondary considerations that the Board previously permitted the Parties to redact. *See* Paper No. 38 (granting Paper No. 29 (Renewed Joint Motion to Seal Patent Owner Response) and Paper No. 34 (Joint Motion to Seal Petitioner’s Reply)).

Public disclosure of this portion of Patent Owner’s Sur-reply has the potential to significantly harm both Parties’ competitive positions because it would allow competitors to access highly sensitive business information regarding research & development, manufacturing processes, process information, and competitive intelligence.

For these reasons, the Patent Owner Sur-reply is designated as “Confidential” under the Proposed Protective Order, and Patent Owner has concurrently filed a redacted “Public” version.

Undersigned counsels, on behalf of Patent Owner and Petitioner, certify that the information sought to be sealed has not, to their knowledge, been published or otherwise made public.

Respectfully submitted,

Date: April 10, 2024

/ Grace J. Kim /

Grace J. Kim (Reg. No. 71,977)
Counsel for Patent Owner

/ Eric S. Lucas /

Eric S. Lucas (Reg. No. 76,434)
Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e), the undersigned certifies that on April 10, 2024, a complete and entire copy of this Joint Motion to Seal was provided via email, to the Petitioner by serving the correspondence addresses of record as follows:

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