

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFESCAN, INC.,
Petitioner,

v.

FACET TECHNOLOGIES, LLC,
Patent Owner.

IPR2023-00712
Patent 8,840,635 B2

Before ULRIKE W. JENKS, JASON W. MELVIN, and DAVID COTTA,
Administrative Patent Judges.

JENKS, *Administrative Patent Judge.*

ORDER
Motions to Seal
37 C.F.R. §§ 42.5, 42.14, 42.43

The parties have filed unopposed motions to seal various papers and exhibits. *See* Papers 20, 31, 34, 45, 46, 49, 54, 56, 68, 75 (“Motions to Seal”). Patent Owner requests to seal Exhibits 2023, 2024, 2030, 2040, 2044, 2045, 2050–2052, and 2058. Papers 75. Petitioner requests to seal Exhibits 1034, 1039, 1046, 1052, and 1056. Papers 31, 34. With the renewed¹ unopposed Motion to Seal, Patent Owner submitted a joint Proposed Protective Order for this proceeding. *See* Paper 75 (Appendices A and B); Ex. 2066 (signed joint Proposed Protective Order).

There is a strong public policy in favor of making information filed in an *inter partes* review open to the public, especially because the proceeding determines the patentability of claims in an issued patent and, therefore, affects the rights of the public. Under 35 U.S.C. § 316(a)(1) and 37 C.F.R. § 42.14, all papers filed in an *inter partes* review are open and available for access by the public. A party, however, may file a motion to seal confidential information, and the information is sealed pending the outcome of the motion. 37 C.F.R. § 42.54. As set forth in the Board’s Consolidated Trial Practice Guide (CTPG),² 10 “[t]he 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.”

Each of the parties’ Motions to Seal relates to information regarded by either Petitioner or Patent Owner as confidential business information or confidential technical information. *See, e.g.*, Paper 75, 6; Paper 31, 1; Paper

¹ In our previous order, Paper 72, we denied without prejudice Patent Owner’s motion to seal because the accompanying joint Proposed Protective Order was unsigned.

² The Consolidated Trial Practice Guide (Nov. 21, 2019) is available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

34, 1. The parties' Motions to Seal persuade us that the information the parties seek to seal constitutes confidential business, financial, and/or technical information. Additionally, the parties' Motions to Seal persuade us that good cause exists for sealing the information that the parties request to be sealed, and we *grant* the Motions to Seal. *See* 37 C.F.R. § 42.54.

ORDER

It is:

ORDERED that Patent Owner's request to enter the joint Proposed Protective Order (Paper 75, Exhibit A; Ex. 2066) is *granted*; and

FUTHEER ORDERED that Patent Owner's Motions to Seal are *granted*; and

FURTHER ORDERED that Petitioner's Motions to Seal are *granted*.

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