

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,

Petitioner

v.

VL COLLECTIVE IP, LLC.,

Patent Owner

IPR2023-00891
U.S. Patent 8,605,794

PATENT OWNER'S UNOPPOSED MOTION TO SEAL

Patent Owner, VL Collective IP LLC, submits this unopposed Motion to Seal Patent Owner's Motion to Terminate and Exhibits 2020, 2021, 2022. Patent Owner submits this Motion to safeguard Petitioner's confidential information pursuant to the Protective Order. *See* Paper 27. Each of the aforementioned exhibits comprises confidential information, and the forthcoming redacted version of the Motion to Terminate will rely on and discuss the confidential information disclosed in such exhibits.

I. GOOD CAUSE EXISTS FOR SEALING THE MOTION TERMINATE AND THE RELEVANT EXHIBITS

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.” *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 37 at 4 (PTAB Apr. 5, 2013) (quoting Office Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012)); 37 C.F.R. § 42.54(a). “[A] movant to seal must demonstrate adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.” *Argentum Pharm. LLC v. Alcon Research*,

Ltd., IPR2017-01053, Paper 27 at 4 (PTAB Jan. 19, 2018) (citing 37 C.F.R. § 42.54(a)). Here, Patent Owner's Motion to Terminate relies on confidential information from Exhibits 2020-2022 to show that Petitioner was an RPI or privy in IPR2022-01086.

Exhibit 2020 includes interrogatory responses provided by Petitioner describing its term of membership with Unified Patents, LLC (Unified) and payments made to Unified. Petitioner has marked its interrogatory responses PROTECTIVE ORDER MATERIAL – ATTORNEYS' EYES ONLY as it contains confidential information about Petitioner's finances.

Exhibit 2021 is a membership agreement between Unified and Petitioner. Petitioner has marked its membership agreement CONFIDENTIAL PROTECTIVE ORDER MATERIAL – ATTORNEYS' EYES ONLY as it contains sensitive business information.

Exhibit 2022 is a subscription form between Unified and Petitioner. Petitioner has marked its subscription form CONFIDENTIAL PROTECTIVE ORDER MATERIAL – ATTORNEYS' EYES ONLY as it contains sensitive business information.

A. The *Argentum* Factors

With respect to the first and second *Argentum* factors, the Motion to Terminate and Exhibits 2020-2022 contain non-public confidential proprietary

business information about Petitioner. Public disclosure of this information would expose Petitioner's business activities and financial information.

With respect to the third *Argentum* factor, the information in Exhibits 2020-2022 is relevant to whether Petitioner was an RPI or privy in IPR2022-01086. Patent Owner relies on confidential information to show that Petitioner is an RPI or privy in IPR2022-01086.

With respect to the fourth factor, the public will be able to access the general nature of the facts of this proceeding using the publicly available information, which will provide the public with an adequate understanding of the proceeding. Therefore, the balance in maintaining confidentiality outweighs the strong public interest in having an open record as the Motion to Terminate and Exhibits 2020-2023 contain non-public confidential proprietary business information about Petitioner.

Based on the reasons above, good cause exists for the Board to seal the Motion to Terminate and Exhibits 2020-2022.

II. NON-CONFIDENTIAL INFORMATION

Pursuant to the Trial Practice Guide, Patent Owner will provide a redacted versions of the Motion to Terminate and Exhibits 2020, 2021, and 2022 once it has had the opportunity to consult with Petitioner to determine the extent of the redactions.

Patent Owner certifies that, to the best of its knowledge and understanding, the information sought to be sealed by this Motion has not been published or otherwise made publicly available.

III. CONCLUSION

For the reasons stated above, Patent Owner requests the Motion to Seal be granted.

Dated: May 31, 2024

By: / Christine E. Lehman /
Christine E. Lehman
PTO Reg. No. 38,535
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on, via electronic mail, as agreed to by counsel, upon the following counsel for Petitioner:

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Dated: May 31, 2024

/Christine E. Lehman/