

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.; INSTAGRAM, INC.; WHATSAPP LLC; META
PLATFORMS TECHNOLOGIES, LLC; AND GIPHY, INC.

Petitioners

v.

VL COLLECTIVE IP LLC,

Patent Owner

U.S. Patent No. 7,436,980

Case IPR2023-00924

PETITIONERS' MOTION FOR ENTRY OF PROTECTIVE ORDER

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioners Meta Platforms, Inc., Instagram, Inc., WhatsApp LLC, Meta Platforms Technologies, LLC, and Giphy, Inc. (collectively "Petitioners") respectfully request that the attached protective order, be entered. The proposed protective order is attached as Appendix A to this Motion.

The document that Petitioners seek to obtain by entry of the protective order was discovered during the subpoena process, based on the subpoena filed on Dorin Comaniciu in the ongoing proceedings between the parties in IPR2023-00924, per the Order the Board issued on February 22, 2024. Paper 25. The document is an invention disclosure document for the priority application that resulted in the '980 Patent ("Disclosure Document").

**I. PETITIONERS' REQUEST FOR ENTRY OF MODIFIED
PROTECTIVE ORDER**

Petitioners respectfully request that the Board enter the unopposed modified protective order attached as Appendix A to protect the highly sensitive confidential technical and business information contained in document. The Disclosure Document is an invention disclosure document for the priority application that resulted in the '980 Patent, which is assigned to Siemens Corporate Research Inc. Thus, the document includes Siemens' confidential information, necessitating the protective order be entered prior to Mr. Comaniciu providing the document. Petitioners will submit a separate Motion to Seal if the document is filed as an exhibit.

Patent Owner does not oppose entry of the amended version of the Default Protective Order attached as Appendix A. *See* Consolidated Office Patent Trial Practice Guide, Appx. B (Nov. 2019). In comparison to the Default Protective Order, the proposed Modified Protective Order includes an additional language indicating that “the material produced and designated as “PROTECTIVE ORDER MATERIAL” shall be used only for this proceeding (IPR2023-00924), the parallel district court action (C.A. No. 1:22-cv-00680-JHS (D. Del.)), and any dispute between one or more of Petitioners and Patent Owner with respect to U.S Patent No. 7,436,980 where a comparable protective order has been entered.” *See* **Appendix B** (redline version showing changes to the Default Protective Order). This modification was requested by Mr. Comaniciu’s counsel as a condition of providing the document to the parties. The minor edits from the default protective order are required for Petitioners to obtain the document. Accordingly, there is good cause for entry of the Modified Protective Order, and Petitioners respectfully request that the Board accept and enter the Modified Protective Order attached as **Appendix A**.

II. CONCLUSION

For the reasons set forth above, Petitioners respectfully request the Board enter the proposed Protective Order.

Petitioners' Motion for Entry of Protective Order

Dated: June 25, 2024

Respectfully submitted,

/Jennifer R. Bush/

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on June 25, 2024 via electronic mail to counsel of record for the Patent Owner at the following:

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Appendix A

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.; INSTAGRAM, INC.; WHATSAPP LLC; META
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U.S. Patent No. 7,436,980

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[PROPOSED] PROTECTIVE ORDER

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.” Information produced and designated as “PROTECTIVE ORDER MATERIAL” shall be used only for this proceeding (IPR2023-00924), the parallel district court action (C.A. No. 1:22-cv-00680-JHS (D. Del.)), and any dispute between one or more of Petitioners and Patent Owner with respect to U.S Patent No. 7,436,980 where a comparable protective order has been entered.

2. Access to confidential information is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) *Parties.* Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.

(B) *Party Representatives.* Representatives of record for a party in the proceeding.

(C) *Experts.* Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(D) *In-house counsel.* In-house counsel of a party.

(E) *Support Personnel.* Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

(F) *The Office.* Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in (d)(2)(A)–(E), shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

4. Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

(A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;

(B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;

(C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and

(D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

5. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) *Documents and Information Filed With the Board.*

i. A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set

forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The documents or information shall remain under seal unless the Board determines that some or all of it does not qualify for confidential treatment.

ii. Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) *Documents and Information Exchanged Among the Parties.*

Documents (including deposition transcripts) and other information designated as confidential that are disclosed to another party during discovery or other proceedings

before the Board shall be clearly marked as “PROTECTIVE ORDER MATERIAL” and shall be produced in a manner that maintains its confidentiality.

6. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

7. The form attached as **Exhibit A** may be used to acknowledge a Protective Order and gain access to information covered by the Protective Order.

EXHIBIT A

UNITED STATES PATENT AND TRADEMARK OFFICE

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**STANDARD ACKNOWLEDGMENT FOR ACCESS
TO PROTECTIVE ORDER MATERIAL**

I, _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding;

that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Patent Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

Name

Appendix B

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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[PROPOSED] PROTECTIVE ORDER

Default Protective Order

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6. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

7. ~~Standard Acknowledgment of Protective Order. The following form~~The form attached as Exhibit A may be used to acknowledge a ~~p~~Protective ~~e~~Orders and gain access to information covered by the ~~p~~Protective ~~e~~Orders.

[CAPTION]

~~Standard Acknowledgment for Access to Protective Order Material~~

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proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Patent Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

Name

~~[Signature]~~

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Summary report: Litera Compare for Word 11.7.0.54 Document comparison done on 6/25/2024 5:44:05 PM	
Style name: Fenwick	
Intelligent Table Comparison: Active	
Original filename: Model Protective Order.docx	
Modified filename: Proposed Protective Order - and Appendix A (Meta Platforms)(18209966.7).docx	
Changes:	
<u>Add</u>	48
~~Delete~~	14
~~Move From~~	0
<u>Move To</u>	0
<u>Table Insert</u>	0
~~Table Delete~~	0
<u>Table moves to</u>	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	62