Filed on behalf of: AX Wireless, LLC

Entered: June 17, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

AX Wireless, LLC,
Patent Owner.

Case IPR2023-01138
Patent 10,554,459

JOINT MOTION FOR ENTRY OF PROTECTIVE ORDER

Exhibit List

Exhibit	Description
2001	Declaration of Zygmunt Haas, Ph.D. ("Haas" or "AXW-2001")
2002	*Curriculum Vitae* of Zygmunt Haas, Ph.D. ("AXW-2002")
2003	Institute of Electrical & Electronics Engineers ("IEEE"), *IEEE Standards Association – Documents 802.11* (Oct. 10, 2023), https://mentor.ieee.org/802.11/documents (excerpted) ("AXW-2003")
2004	IEEE, *IEEE Standards Association – Documents 802.11: Working Group* (Oct. 8, 2023), https://mentor.ieee.org/802.11/documents?is_dcn=DCN%2C%20Title%2C%20Author%20or%20Affiliation&is_group=0000 (screenshot excerpts) ("AXW-2004")
2005	IEEE, *IEEE Standards Association – Documents 802.11: TGn Working Group (inactive)* (Sept. 20, 2023), https://mentor.ieee.org/802.11/documents?is_group=000n (excerpted) ("AXW-2005")
2006	IEEE 802.11 Working Group of the 802 Committee, *IEEE P802.11n™/D1.0, Draft Amendment to STANDARD [FOR] Information Technology-Telecommunications and information exchange between systems-Local and Metropolitan networks-Specific requirements-Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) specifications: Enhancements for Higher Throughput* (Mar. 2006) ("AXW-2006")
2007	IEEE, *IEEE Standards Association – Documents 802.11 (no search terms)* (Sept. 22, 2023), https://mentor.ieee.org/802.11/documents ("AXW-2007")
2008	IEEE, *IEEE Standards Association – Documents 802.11 (all groups; extended range activity)* (Sept. 20, 2023), https://mentor.ieee.org/802.11/documents?is_dcn=extended range ("AXW-2008")

Exhibit	Description
2009	IEEE, *IEEE Standards Association – Documents 802.11: TGn Working Group (inactive; range search)* (Sept. 20, 2023), https://mentor.ieee.org/802.11/documents?is_dcn=range&is_group=000n ("AXW-2009")
2010	IEEE, *IEEE Standards Association – Documents 802.11: TGn Working Group (inactive; extended range activity)* (Sept. 20, 2023), https://mentor.ieee.org/802.11/documents?is_dcn=extend&is_group=000n ("AXW-2010")
2011	IEEE, *IEEE Standards Association – Documents 802.11 (all groups; extended and range search activity)* (Oct. 9, 2023), https://mentor.ieee.org/802.11/documents?is_dcn=extended AND range ("AXW-2011")
2012	IEEE, *IEEE Standards Association – Documents 802.11 (all groups; range search activity)* (Oct. 10, 2023), https://mentor.ieee.org/802.11/documents?is_dcn=range (excerpted) ("AXW-2012")
2013	Bruce Kraemer & Adrian Stephens, *TGn Proposed Draft Revision Notice* (Doc. No. IEEE 802.11-06/1061r0) (July 18, 2006), https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fmentor.ieee.org%2F802.11%2Fdcn%2F06%2F11-06-1060-00-000n-tgn-draft-revision-with-additions-and-deletions.ppt&wdOrigin=BROWSELINK ("AXW-2013")
2014	Gérald Chouinard, *Bringing broadband access to rural and remote areas: The Canadian Experience*, ITU NEWS (commem. ed. 3) (Apr. 2006) ("AXW-2014" or "ITU News")
2015	Matthew S. Gast, *802.11 Wireless Networks: The Definitive Guide* (2d ed. 2005) ("AXW-2015" or "Gast")

Exhibit	Description
2016	Syed Aon Mujtaba, *TGn Sync Response to Questions* (Doc. No. IEEE 802.11-05/182r2) (Mar. 16, 2005), https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fmentor.ieee.org%2F802.11%2Fdcn%2F05%2F11-05-0182-02-000n-tgnsync-response-to-atlanta-questions.ppt&wdOrigin=BROWSELINK ("AXW-2016")
2017	Third Amended Docket Control Order, *AX Wireless LLC v. Dell Inc.*, No. 2:22-cv-00277 (E.D. Tex. Oct. 23, 2023), ECF No. 136 ("AXW-2017")
2018	Third Amended Docket Control Order, *AX Wireless LLC v. Lenovo Grp. Ltd.*, No. 2:22-cv-00280 (E.D. Tex. Oct. 31, 2023), ECF No. 130 ("AXW-2018")
2019	RESERVED
2020	*Time to Milestones – Judge Robert W. Schroeder, III: Case Filing Date: On or After Jan. 1, 2008*, Docket Navigator ("AXW-2020")
2021	Civil Docket, *AX Wireless LLC v. Dell Inc.*, No. 2:22-cv-00277 (E.D. Tex.) (through Nov. 15, 2023) ("AXW-2021")
2022	Civil Docket, *AX Wireless LLC v. Lenovo Grp. Ltd.*, No. 2:22-cv-00280 (E.D. Tex.) (through Nov. 15, 2023) ("AXW-2022")
2023	Defendants' P.R. 3-3 Invalidity Contentions and Ineligibility Contentions, *AX Wireless LLC v. Dell Inc. & HP Inc.*, Nos. 2:22-cv-00277, 2:22-cv-00279 (E.D. Tex. Jan. 23, 2023 [served]) ("AXW-2023")
2024	RESERVED

Exhibit	Description
2025	R. Kennedy, *Amendment to IEEE Standard 802.11-2007 (Project No. P802.11af): Standard for Information Technology - Telecommunications and Information Exchange Between Systems - Local and Metropolitan Area Networks - Specific Requirements - Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications; Amendment: TV White Spaces Operation* (PAR Request Oct. 2, 2009; PAR Approval Dec. 9, 2009) ("AXW-2025")
2026	Bruce Kraemer, *Amendment to IEEE Standard 802.11-2007 (Project No. P802.11ah): Standard for Information Technology - Telecommunications and Information Exchange Between Systems - Local and Metropolitan Area Networks - Specific Requirements - Part 11: Wireless LAN Medium Access Control (MAC) and Physical Layer (PHY) Specifications; Amendment: Sub 1 GHz License-Exempt Operation* (PAR Request July 26, 2010; PAR Approval Sept. 30, 2010) ("AXW-2026")
2027	Xuemei Ouyang et al., *Optimal Antenna Diversity Combining for IEEE 802.11A System*, 48 IEEE TRANSACTIONS CONSUMER ELECS. 738 (Aug. 2002) ("AXW-2027")
2028	Cenk Kose & Bruce Edwards, *WWiSE Proposal: High Throughput Extension to the 802.11 Standard* (Doc. No. IEEE 802.11-04/0886r6) (Jan. 6, 2005), https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjJq5fyur-CAxUROUQIHan7D4IQFnoECBkQAQ&url=https%3A%2F%2Fmentor.ieee.org%2F802.11%2Fdcn%2F05%2F11-05-0149-00-000n-wwise-proposal-high-throughput-extension-to-802-11-standard.doc&usg=AOvVaw2ryBNHlH79Ugg8pE4IzPVE&opi=89978449 ("AXW-2028" or "March 2005 WWiSE Proposal")
2029	Mohammad Hossein Manshaei & Thierry Turletti, *Simulation-Based Performance Analysis of 802.11a Wireless LAN*, PROC. INT'L SYMP. TELECOMMS. 758 (Aug. 2003) ("AXW-2029")

Exhibit	Description
2030	IEEE, *IEEE P802.11 – Task Group N – Meeting Update: Status of Project IEEE 802.11n: Standard for Enhancements for Higher Throughput*, https://www.ieee802.org/11/Reports/tgn_update.htm (printed 11/10/2023) ("AXW-2030")
2031	RESERVED
2032	RESERVED
2033	Docket Control Order, *AX Wireless LLC v. Acer Inc.*, No. 2:23-cv-00041-JRG-RSP (E.D. Tex. Oct. 13, 2023), ECF No. 35 ("AXW-2033")
2034	Defendant Acer Inc.'s Initial Disclosures Pursuant to Paragraphs 1 and 3 of the Discovery Order, *AX Wireless LLC v. Acer Inc.*, No. 2:23-cv-00041-JRG-RSP (E.D. Tex. Oct. 19, 2023) ("AXW-2034")
2035	Defendant's P.R. 3-3 Invalidity Contentions and Ineligibility Contentions, *AX Wireless LLC v. Acer Inc.*, No. 2:23-cv-00041-JRG-RSP (E.D. Tex. Nov. 30, 2023) ("AXW-2035")
2036	Defendant HP Inc.'s Rule 72(a) Objections to Order Denying Motion to Transfer to the Northern District of California, *AX Wireless LLC v. HP Inc.*, No. 2:22-cv-00279-JRG-RSP (E.D. Tex. Dec. 21, 2023), ECF No. 101 ("AXW-2036")
2037	Fourth Amended Docket Control Order, *AX Wireless LLC v. Dell Inc.*, No. 2:22-cv-00277-RWS-RSP (E.D. Tex. Jan. 2, 2024), ECF No. 161 ("AXW-2037")
2038	Third Amended Docket Control Order, *AX Wireless LLC v. HP Inc.*, No. 2:22-cv-00279-JRG-RSP (E.D. Tex. Jan. 2, 2024), ECF No. 102 ("AXW-2038")
2039	Declaration of Amit Makker In Response to Petitioner's Objections to Patent Owner's Evidence ("AXW-2039") [*served, not filed*]

Exhibit	Description
2040	Amended Docket Control Order, *AX Wireless LLC v. Lenovo Group Limited*, No. 2:22-cv-0280-JRG-RSP (E.D. Tex. Feb. 24, 2023), ECF No. 58 ("AXW-2040")
2041	Docket Control Order, *AX Wireless LLC v. Dell Inc.*, No. 2:22-cv-00277-JRG-RSP (E.D. Tex. Dec. 10, 2022), ECF No. 48 ("AXW-2041")
2042	Declaration of Allison Harms in Support of Patent Owner's Unopposed Motion for *Pro Hac Vice* Admission Under 37 C.F.R. § 42.10(c) ("AXW-2042")
2043	Corrected Declaration of David J. Hlavka in Support of Patent Owner's Unopposed Motion for *Pro Hac Vice* Admission Under 37 C.F.R. § 42.10(c) ("AXW-2043")
2044	Joint Proposed Protective Order ("AXW-2044")
2045	Markup Comparison Showing Differences Between the Joint Stipulated Protective Order and the Default Protective Order ("AXW-2045")
2046	Supplemental Protective Order Governing Non-Party Intel Corporation's Confidential Business Information, *AX Wireless LLC v. Dell Inc.*, No. 2:22-cv-00277 (E.D. Tex. May 4, 2023), ECF No. 95 ("AXW-2046")
2047	RESERVED
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Exhibit	Description
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Exhibit	Description
2075	RESERVED
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2079	RESERVED
2080	Joint Proposed Protective Order ("AXW-2080")
2081	Markup Comparison Showing Differences Between the Joint Stipulated Protective Order (AXW-2080) and the Default Protective Order ("AXW-2081")

Pursuant to 37 C.F.R. § 42.54, the Board's May 23, 2024 email authorizing such a Motion, and the parties' June 4, 2024 conference call with the Board, Patent Owner AX Wireless, LLC and Petitioner Intel Corporation (the "Parties") hereby file this Joint Motion for Entry of a Proposed Protective Order, a copy of which is filed concurrently as AXW-2080. This Joint Motion supersedes the Parties' prior motion at Paper 28 (filed May 28, 2024).

The Parties have agreed to limited additional discovery in this proceeding of certain documents, expert reports, and inventor and expert deposition transcripts from related currently-pending district court litigation, *AX Wireless LLC v. Dell Inc.*, No. 2:22-cv-00277 (E.D. Tex.), involving the patent-at-issue in this proceeding. In the district court litigation, the Parties previously arrived at a mutual agreement that such materials contain sensitive information that is highly confidential information relating to their core businesses, and that public disclosure of this information could significantly harm their competitive positions (collectively, "Protective Order Material"). To that end, in the related currently-pending district court action, the Parties negotiated, and the district court signed and entered, a protective order that is in effect, a copy of which was previously filed as AXW-2046. The Parties have jointly agreed to model the Joint Proposed Protective Order for this proceeding (AXW-2080) on the district court order (AXW-2046). *See* Consolidated Trial Practice Guide at 116 ("When a proceeding before the Board involves the same

parties and subject matter as a parallel district court proceeding, parties may propose that a protective order entered by the district court be adopted by the Board."). Good cause exists for the parties' deviation from the Default Protective Order for the reasons stated herein.

The Parties respectfully submit that the district court's approval, notwithstanding the public interest in general in court proceedings being public, of the Parties' negotiated confidentiality protections for Protective Order Material; the fact that Intel agrees to the Joint Proposed Protective Order; the wide acceptance of the fact that highly sensitive and confidential technical information should be afforded protections from disclosure; and the confidential nature of the information that is the subject of the Joint Proposed Protective Order all weigh strongly in favor of granting this motion.

Moreover, importantly, the Parties submit that the negotiated specific protections in the existing protective order in district court with respect to Protective Order Material should be preserved. The parties negotiated these terms for several months prior to arriving at an agreed-upon protective order in the district court litigation. Specifically, sensitive business information and technical documents have been produced in the district court action under specific provisions to preserve their confidentiality. For example, under the protective order in the district court, highly sensitive business information and technical documents are not permitted to

be seen by the non-producing party. The Parties request that this limitation on access to the Protective Order Material, which was negotiated between and agreed to by both AX Wireless and Intel in the district court litigation and in this proceeding, should be approved by the Board in this proceeding. This is reflected in the tiers of confidentiality included in the Joint Proposed Protective Order. *See* Consolidated Trial Practice Guide at 115-16 ("The Board will presumptively accept agreed-to changes that provide additional categories of confidentiality …."). This restriction applies only to information that would already be sealed from the public view by the other provisions of the Joint Proposed Protective Order.

Additionally, the Joint Proposed Protective Order maintains the confidentiality designations used in the district court litigation, rather than that of the Default Protective Order to avoid unnecessary expenditure of resources re-stamping the documents expected to be used in these proceedings that have already been designated under the district court protective order.

Additionally, the Parties submit that additional negotiated specific protections in the existing protective order in district court with respect to Protective Order Material should be preserved in this proceeding. For example, under the protective order in the district court, the transporting of confidential material is restricted to either specific encrypted electronic transmission systems or hand delivery. These restrictions reduce the chance of inadvertent disclosure. The protective order in the

district court additionally requires that a party disclosing an outside consultant provide the other party with additional information and allows the other party to object. This allows parties to verify that a disclosed consultant does not have a conflict of interest.

Finally, the Parties further negotiated and agreed upon provisions specific to this proceeding, including following guidance from the Board on the June 4, 2024 conference call. Additionally, the Parties agree that no source code should be submitted or otherwise used in this proceeding, and have therefore removed such clauses from AXW-2080, consistent with the Board's guidance on the June 4, 2024 conference call. *See also* Consolidated Trial Practice Guide at 116 ("The Board may enter [a protective order entered by the district court] especially if certain provisions commonly found in district court protective orders that are unnecessary or inappropriate in proceedings before the Board are removed before submitting the proposed protective order to the Board.").

Filed concurrently as AXW-2080 is a copy of the Joint Proposed Protective Order that the Parties jointly request be entered. The Parties respectfully request that the Joint Proposed Protective Order, filed concurrently as AXW-2080, govern the materials in this proceeding to the extent they are found to contain Protective Order Material. The Parties will abide by the terms of the Joint Proposed Protective Order. A redline comparison of the Joint Proposed Protective Order and the Default

Protective Order is also filed concurrently as AXW-2081, consistent with the Board's instructions on the June 4, 2024 conference call. *See* Consolidated Trial Practice Guide at 91 ("If the parties choose to propose a protective order deviating from the default protective order, they must submit the proposed protective order jointly along with a marked-up comparison of the proposed and default protective orders showing the differences between the two and explain why good cause exists to deviate from the default protective order.").

Pursuant to 37 C.F.R. § 42.54, AX Wireless certifies that it conferred in good faith with Intel regarding this motion and the scope of the Joint Proposed Protective Order. The Parties jointly submit this Motion and agree to the terms of the Joint Proposed Protective Order filed concurrently as AXW-2080.

For the foregoing reasons, the Parties respectfully request the PTAB grant this motion and enter the Joint Proposed Protective Order filed concurrently as AXW-2080.

Respectfully submitted,

Dated: June 17, 2024

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Dated: June 17, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 17th day of June, 2024, a true and correct copy of the foregoing **Joint Motion for Entry of a Protective Order and Exhibits 2080-2081** were served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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