Filed on behalf of: AX Wireless, LLC

Entered: July 23, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

AX Wireless, LLC,
Patent Owner.

Case IPR2023-01143
Patent 9,584,262

JOINT MOTION TO EXPUNGE EXHIBIT 1047 FROM THE RECORD

TABLE OF CONTENTS

I. Introduction 1

II. Legal Standard 1

III. Confidential Exhibit 1047 Should Be Expunged 3

IV. Conclusion 4

TABLE OF AUTHORITIES

Page(s)

CASES

Apple Inc. v. Firstface Co.,
IPR2019-00612, Paper 30 (Nov. 29, 2021) 2, 3

Baker Hughes Holdings, LLC v. LiquidPower Specialty Prods. Inc.,
IPR2016-00734, Paper 119 (Oct. 10, 2023) 3

Bio-Rad Lab'ys, Inc. v. 10x Genomics, Inc.,
IPR2019-00565, Paper 25 (Sept. 20, 2019) 2

Corning Optical Commc'ns RF, LLC v. PPC Broadband, Inc.,
IPR2013-00346, Paper 94 (Oct. 2, 2018) 2

Samsung Elecs. Co. v. Nucurrent, Inc.,
IPR2019-00861, Paper 85 (Nov. 1, 2022) 2

Unified Patents LLC v. Monarch Networking Sols. LLC,
IPR2020-01708, Paper 63 (July 26, 2022) 3

STATUTES

35 U.S.C.
§ 317 1
§ 317(b) 1

REGULATIONS

37 C.F.R.
§ 42.54 2
§ 42.56 1
§ 42.74 1
§ 42.74(c) 1

OTHER AUTHORITIES

PTAB Consolidated Trial Practice Guide (Nov. 2019) 1, 2

I. Introduction

Pursuant to 37 C.F.R. § 42.56 and the Board's Order (Paper 22), the parties jointly submit this motion to withdraw and expunge Confidential Exhibit 1047 from the record.

The parties filed a Joint Motion to Terminate Pursuant to 35 U.S.C. § 317 and 37 C.F.R. § 42.74 (Paper 20), and a Joint Request to File Confidential Statement as Business Confidential Information Pursuant to 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) (Paper 21). The Board subsequently denied both, but stated that Exhibit 1047 could be withdrawn. Paper 22. As the parties are concurrently filing renewed papers to terminate this proceeding, Exhibit 1047 is unnecessary and should be stricken from the record.

II. Legal Standard

"A party seeking to maintain the confidentiality of information . . . may file a motion to expunge the information from the record prior to the information becoming public." PTAB Consol. Trial Prac. Guide ("Trial Prac. Guide") at 22 (Nov. 2019). If a motion to protect disclosure of confidential information is not granted, "the party submitting the confidential information will have the opportunity to have the submitted information expunged from the record." *Id.* at 20.

"The Board has held [that] th[e] rule controlling the expungement of confidential information is subject to the same 'good cause' standard for granting a motion to seal under 37 C.F.R. § 42.54." *Corning Optical Commc'ns RF, LLC v. PPC Broadband, Inc.*, IPR2013-00346, Paper 94 at 3 (Oct. 2, 2018). While "[t]here is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial," this "rule balances the needs of the parties to submit confidential information with the public interest in maintaining a complete and understandable file history for public notice purposes." Trial Prac. Guide at 22. For example, the Board has found good cause to expunge previously sealed material where doing so does not impact the public's interest. *See, e.g.*, *Samsung Elecs. Co. v. Nucurrent, Inc.*, IPR2019-00861, Paper 85 at 4-5 (Nov. 1, 2022).

The Board has expunged confidential material if "the record of the proceedings and Final Written Decisions remain understandable in the absence of the redacted material." *See, e.g.*, *Apple Inc. v. Firstface Co.,* IPR2019-00612, Paper 30 at 3 (Nov. 29, 2021). Additionally, the Board has generally expunged confidential information that it does not rely upon. *See, e.g.*, *Bio-Rad Lab'ys, Inc. v. 10x Genomics, Inc.*, IPR2019-00565, Paper 25 at 2 (Sept. 20, 2019) (expunging exhibits "not cited or discussed in the Board's Decision Denying Institution").

Alternatively, when the Board has been reluctant to expunge documents, particularly Papers, "that support the outcome of our Decisions," the Board can "maintain as confidential and under seal the unredacted versions" of those documents. *Baker Hughes Holdings, LLC v. LiquidPower Specialty Prods. Inc.*, IPR2016-00734, Paper 119 at 6-7 (Oct. 10, 2023); *see also Unified Patents LLC v. Monarch Networking Sols. LLC*, IPR2020-01708, Paper 63 at 6 (July 26, 2022) (similar).

III. Confidential Exhibit 1047 Should Be Expunged

The parties jointly move to expunge Confidential Exhibit 1047. In response to the Board's Order (Paper 22), the parties are filing a renewed motion to terminate the proceeding, along with a new confidential exhibit, Exhibit 2082, that includes all agreements that resolve the issues in this proceeding. Exhibit 2082 includes Confidential Exhibit 1047, making Exhibit 1047 unnecessary.

The Board will expunge confidential materials if "the record of the proceedings and Final Written Decisions remain understandable in the absence of the redacted material." *See, e.g.*, *Apple*, IPR2019-00612, Paper 30 at 3. This is the case for Exhibit 1047. Exhibit 1047 was filed as part of the parties' now-denied joint motion to terminate. The contents of Exhibit 1047 are in Exhibit 2082, included with the parties' renewed joint motion to terminate. Thus, Exhibit 1047

has no bearing on the record of this proceeding. Moreover, the Board stated that the parties may withdraw Exhibit 1047. Paper 22.

IV. Conclusion

For the reasons above, the parties respectfully request that the Board expunge Exhibit 1047.

Respectfully submitted,

Dated: July 23, 2024

By: / S. Giri Pathmanaban /

S. Giri Pathmanaban (Reg. No. 75,986)
giri.pathmanaban@lw.com
Latham & Watkins LLP
300 Colorado Street, Suite 2400
Austin, TX 78701-3295
Telephone: 737.910.7300
Fax: 737.910.7301

Counsel for Patent Owner
AX Wireless, LLC

Respectfully submitted,

Dated: July 23, 2024

By: / Tyler Bowen /

Tyler Bowen (Reg. No. 60,461)
bowen-ptab@perkinscoie.com
Perkins Coie LLP
2901 N. Central Avenue, Suite 2000
Phoenix, Arizona 85012
Telephone: 602.351.8000
Fax: 602.648.7000

Counsel for Petitioner
Intel Corporation

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 23rd day of July, 2024, a true and correct copy of the foregoing **Joint Motion to Expunge Exhibit 1047 from the Record** was served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

Tyler Bowen (Reg. No.: 60,461)
Perkins Coie LLP
2901 N. Central Avenue, Suite 2000
Phoenix, Arizona 85012
bowen-ptab@perkinscoie.com
Tel.: 602.351.8000; Fax: 602.648.7000

Jonathan R. Carter (Reg. No. 75,145)
Perkins Coie LLP
1155 Avenue of the Americas, 22nd Floor
New York, New York 10036
Carter-ptab@perkinscoie.com
Tel.: 212.261.6826; Fax: 212.977.1649

Matthew W. Hindman (Reg. No. 57,396)
Perkins Coie LLP
3150 Porter Drive
Palo Alto, CA 94304-1212
Hindman-ptab@perkinscoie.com
Tel.: 650.838.4300; Fax: 650.838.4350

By: / S. Giri Pathmanaban /

S. Giri Pathmanaban (Reg. No. 75,986)
giri.pathmanaban@lw.com
Latham & Watkins LLP
300 Colorado Street, Suite 2400
Austin, TX 78701-3295
Telephone: 737.910.7300

Fax: 737.910.7301

Counsel for Patent Owner
AX Wireless, LLC