

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD. and
APPLE INC.¹,
Petitioner,

v.

RJ TECHNOLOGY LLC,
Patent Owner.

IPR2023-01183
Patent 7,749,641 B2

Before JON B. TORNQUIST, CHRISTOPHER M. KAISER, and
BRIAN D. RANGE, *Administrative Patent Judges*.

TORNQUIST, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion to Seal and
Entering Modified Protective Order
37 C.F.R. §§ 42.14, 42.54

¹ Apple Inc. was joined as a petitioner in this proceeding based on a petition and motion for joinder filed in IPR2024-00597, which was granted. IPR2024-00597, Paper 8.

I. INTRODUCTION

Petitioner filed a Motion to Seal and Motion for Protective Order (Paper 3, “Motion”) in which Petitioner moves to seal a portion of the Petition (Paper 1, “Pet.”). Petitioner submitted a redacted public version of the Petition (Ex. 1035), as well as a proposed Protective Order (Ex. 1033, “Protective Order”), which is a modified version of the Board’s Default Protective Order (*see* Ex. 1034 (redline version of the Protective Order); Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019) (“Trial Practice Guide”²) 117–122 (“Default Protective Order”)). The Protective Order includes a more restrictive “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” tier of protection, in addition to the less restrictive “PROTECTIVE ORDER MATERIAL” tier in the Default Protective Order. Ex. 1033; *see also* Ex. 1034; Trial Practice Guide 117–122.

For the reasons discussed below, we *grant* Petitioner’s Motion and *enter* Petitioner’s Protective Order.

II. MOTION TO SEAL

The record of an *inter partes* review shall be made available to the public, except as otherwise ordered, and any documents filed with a motion to seal shall be treated as sealed until the motion is decided. 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14. Only “confidential information” may be protected against public disclosure. 35 U.S.C. § 316(a)(7); 37 C.F.R.

² Available at <http://www.uspto.gov/TrialPracticeGuideConsolidated>.

§ 42.54. The Board observes a strong public policy in favor of making information filed in its proceedings open to the public. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3–4 (PTAB Jan. 19, 2018) (informative).

The standard for granting a motion to seal is “good cause.” 37 C.F.R. § 42.54(a). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). For a sufficient showing for a motion to seal, the Board has required 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, Paper 27 at 3–4; *see also Corning Optical Commc’ns RF, LLC v. PPC Broadband, Inc.*, IPR2014-00440, Paper 46 at 2 (PTAB April 6, 2015) (requiring a showing that information has not been “excessively redacted”).

Petitioner explains that the portion of the Petition sought to be sealed—identifying the real parties in interest in the required Mandatory Notices (*see* Pet. 62)—includes “a listing of entities that Petitioner has specific business relationships with concerning the technology accused of infringement in the underlying district court litigation.” Motion 1. Petitioner asserts that it “does not and has not publicly disclosed which entities make which specific products or which entities provide batteries for those specific products at issue . . . and instead maintains that information, including the aggregate compilation of that information, in confidence.” *Id.* at 2. Moreover, Petitioner argues that “[d]isclosing such information runs

the potential of disrupting Petitioner’s business and those who Petitioner has commercial relationships with and may potentially harm Petitioner’s competitive advantage in the marketplace.” *Id.* at 5.

Patent Owner did not oppose Petitioner’s Motion.

We are persuaded that good cause exists to seal the identified portion of the Petition. In particular, Petitioner’s redaction of confidential information in the Petition is narrowly tailored so as to protect the confidential information while balancing the public interest in an open record. *See* Ex. 1035.

III. MODIFIED PROTECTIVE ORDER

The Board may, for good cause, issue a protective order “to protect a party or person from disclosing confidential information.” 37 C.F.R. § 42.54(a). A protective order is not entered by default but must be proposed by one or more parties and must be approved and entered by the Board. Trial Practice Guide 19–20, 107. The Trial Practice Guide sets forth specific guidelines on proposing a protective order and provides a Default Protective Order. *See id.* 19–20, 107–122. The parties may propose modifications to the Default Protective Order and the Board will generally accept such proposed changes if they are consistent with the integrity and efficient administration of the proceedings. *Id.* at 115.

Petitioner’s Protective Order adds the “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” tier of protection to the Default Protective Order to cover “[i]nformation describing trade secrets

including the confidential details of business relationships.” Ex. 1033; *see also* Ex. 1034; Trial Practice Guide 117–122.

After reviewing the proposed modifications to the Default Protective Order in Petitioner’s Protective Order, we determine that the changes are consistent with the integrity and efficient administration of the proceedings. Specifically, Petitioner believes heightened protection of the confidential information at issue is “needed because Petitioner understands the principals for Patent Owner have been or currently are involved in the design of batteries and their access to this information could be used to competitively disadvantage Petitioner.” Motion 6. Patent Owner has not opposed entering the Protective Order for this purpose. Accordingly, we enter Petitioner’s Protective Order.

IV. ORDER

Accordingly, it is

ORDERED that Petitioner’s Motion to Seal is *granted* with respect to the Petition; and

FURTHER ORDERED that the Protective Order (Ex. 1033) is *entered*.

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