

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

OMEGA LINER COMPANY, INC.,

Petitioner

v.

BUERGOFOL GmbH,

Patent Owner.

CASE NO.: IPR2023-01372
U.S. PATENT NO. 9,657,882

PATENT OWNER'S MOTION TO SEAL UNREDACTED DECLARATION

I. ARGUMENT

The Order from the Board authorizing the filing of the motion to submit additional evidence contemplated the submission of draft, unsigned declarations. Based on this context, the undersigned mistakenly understood that the exhibits to the motion, including Mr. Schleicher's declaration, would only be made publicly available *if* and *when* the motion was granted. Under this assumption, the undersigned intended to submit a public, redacted version of Mr. Schleicher's declaration, alongside a non-public, unredacted version at the appropriate time.

However, it has since come to the undersigned's attention—specifically upon reviewing Petitioner's Opposition to Patent Owner's Motion to Seal (Paper No. 28), which was filed on November 19, 2024, and reviewed on November 20, 2024—that Mr. Schleicher's declaration had already been made publicly available.

35 U.S.C. 316(a)(1) is instructive, as “any petition or document filed with the intent that it be sealed shall, if accompanied by a motion to seal, be treated as sealed pending the outcome of the ruling on the motion.” Paragraph 10 of EX2029 contains the exact same subject matter as the subject of Patent Owner's Motion to Seal. Paper No. 28. Considering that the undersigned filed the unredacted document with the misunderstanding that it would be confidential, paragraph 10 should be treated as sealed until resolution of Patent Owner's Motion of Seal. (EX2029, ¶10); Paper No. 28.

Patent Owner hereby requests that Mr. Schleicher's second declaration (EX2029) be sealed for containing in paragraph 10 the same subject matter that is the subject of Patent Owner's Motion to Seal filed October 28, 2024, Paper No. 28.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing PATENT OWNER'S MOTION TO UNREDACTED DECLARATION, was served by filing this document on the date indicated below through the Patent Trial and Appeal Case Tracking System (P-TACTS) and via e-mail to the following attorneys of record for the Patent Owner listed below:

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Dated: November 22, 2024

Respectfully submitted,

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