UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AFFORDABLE WIRE MANAGEMENT, LLC,
Petitioner,

v.

CAMBRIA COUNTY ASSOCIATION FOR
THE BLIND AND HANDICAPPED, INC.,
Patent Owner.

IPR2024-00139
Patent 10,177,551

MOTION TO SEAL PATENT OWNER'S SUR-REPLY AND EXHIBIT IN SUPPORT OF PATENT OWNER'S SUR-REPLY

I. INTRODUCTION

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner Cambria County Association for the Blind and Handicapped, Inc. ("Patent Owner") respectfully submits this Motion to Seal its Patent Owner's Sur-Reply and one exhibit filed in support of Patent Owner's Sur-Reply. The Parties have agreed to the form of a Protective Order, which is a modified version of the Default Protective Order, and is pending approval by the Board. *See* Patent Owner's Motion to Seal and Motion for Entry of Protective Order, Paper 31 (filed August 9, 2024). Pursuant to Section 1 of the proposed Protective Order, Patent Owner has designated as "CONFIDENTIAL PROTECTIVE ORDER MATERIAL" its Patent Owner's Sur-Reply and EX2071. Patent Owner has filed public versions of its Patent Owner's Sur-Reply and this exhibit with the Confidential Information[1] redacted.

Good cause exists for sealing the non-public, unredacted versions of the Patent Owner's Sur-Reply and EX2071 in accordance with the proposed Protective Order and the standards for sealing documents filed with the Board.

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[1] As defined in the proposed Protective Order. Paper 31, Ex. A, at Section 1.

II. ARGUMENT

A. The Standard for Sealing Documents.

The standard for whether the Board may grant a motion to seal is "good cause." 37 C.F.R. § 42.54. *See also Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR 2012-00001, Paper 34 (P.T.A.B. Mar. 14, 2013) (a party may file a motion with the Board to seal confidential information where good cause exists). The PTAB Consolidated Trial Practice Guide ("CTPG") provides that "the rules aim to strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." CTPG, at 19. Further, the CTPG provides that the "rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information." *Id.* (citing 37 C.F.R. § 42.54).

B. Good Cause Exists for Sealing the Patent Owner's Sur-Reply and EX2071 in Support of Patent Owner's Sur-Reply.

The Patent Owner's Sur-Reply and EX2071 in support thereof contain information that is precisely the type of information that the Board considers to be "confidential information." *See* CPTG, at 19 (stating that confidential information includes "confidential research, development, or commercial information.").

Moreover, this information readily meets the definition of "Confidential Information" as set forth in the proposed Protective Order:

> Confidential Information means information that a designating party believes in good faith is not generally known to others and has significant competitive value such that unrestricted disclosure to others would create a substantial risk of serious injury, and which the designating party (i) would not normally reveal to third parties except in confidence or has undertaken with others to maintain in confidence, (ii) believes in good faith is protected by a right to privacy under federal or state law or any other applicable privilege or right related to confidentiality or privacy, or (iii) believes in good faith constitutes proprietary financial, research, development, technical, or commercially sensitive competitive information that the designating party maintains as highly confidential in its business or the disclosure of which is likely to cause harm to the competitive position of the designating party. Confidential Information shall include all documents referring to or relating to the foregoing, including but not limited to copies, summaries, and abstracts of the foregoing.

Motion to Seal and Motion for Entry of Proposed Protective Order, Paper 30, Ex. A, at Section 1. Accordingly, good cause exists for sealing Patent Owner's Confidential Information.

More specifically, EX2071 contains customer information, including names of customers. The Board has found that similar customer information should be sealed. *Motorola Mobility LLC v. Largan Precision Co., Ltd.*, No. IPR2022-01210,

2024 WL 270788, at *17 (P.T.A.B. Jan. 24, 2024) (sealing exhibit containing customer information); *Prong, Inc. v. Yeoshua Sorias*, IPR2015-01317, Paper 32, at 4-6 (P.T.A.B. Mar. 28, 2016) (sealing exhibit containing customer identities and information).

Further, EX2071 contains Patent Owner's financial information, including sales data, revenues, sales growth, product pricing, part numbers, and other financial information concerning Patent Owner's products. The Board routinely grants motions to seal confidential information of this nature. *See, e.g.*, *EIS GmbH v. Novoluto GmbH*, IPR2020-00007, Paper 41, at 66 (P.T.A.B. Sept, 23 2021) (granting motion to seal exhibit containing sales data, revenues, and other financial information); *Tetra Tech Canada Inc. v. Georgetown Rail Equip. Co.*, No. IPR2019-00619, 2020 WL 5031964, at *53 (P.T.A.B. Aug. 25, 2020) (granting motion to seal "confidential technical and financial information about the parties' products, and exhibits having to do with confidential financial information").

The Patent Owner's Sur-Reply incorporates, discusses, and analyzes the information contained in EX2071, and therefore, contains the same Confidential Information that should not be disclosed and be filed under seal. The Sur-Reply also contains CAB's Confidential Information from exhibits previously filed under seal with the Board.

Patent Owner does not publicly disclose the information contained in its Patent Owner's Sur-Reply and EX2071 and maintains this information in confidence. Specifically, information related to Patent Owner's product pricing and client contacts have significant competitive value. Disclosure of this information to the public and, specifically, to Petitioner (i.e., to Petitioner's principals and employees) would create a substantial risk of harm to Patent Owner's competitive position. Indeed, where, as here, the parties are direct competitors, the Board has found that good cause exists for sealing protected information. *See EIS GmbH v. Novoluto GmbH*, IPR2020-00007, Paper 41, at 66 (P.T.A.B. Sept, 23 2021) (granting motion to seal financial information where parties were direct competitors); *Caterpillar Inc. v. Wirtgen Am., Inc.*, IPR2018-01091, Paper 49, at 76-77 (P.T.A.B. Nov. 27, 2019) (disclosure of confidential information is disfavored given "that Petitioner and Patent Owner are competitors …").

III. CONCLUSION

For the reasons stated herein, Patent Owner respectfully requests that the Board:

A. Grant this Motion to Seal;

B. Accept for filing the redacted versions of the Patent Owner's Sur-Reply and EX2071 to be available on the public docket; and

C. Order that the unredacted versions of the Patent Owner's Sur-Reply and EX2071 be filed under seal.

Respectfully submitted,

Dated: December 13, 2024

By: */ Daniel J. Melman /*

Lead Counsel:
Daniel J. Melman (Reg. No. 55,451)
ECKERT SEAMANS CHERIN & MELLOTT, LLC
10 Bank St., Suite 700
White Plains, NY 10606
Email: dmelman@eckertseamans.com
Phone: 914.286.6447
Fax: 914.949.2909

Backup Counsel:
Theodore Y. McDonough
(Reg. No. 71,981)
ECKERT SEAMANS CHERIN & MELLOT, LLC
Gateway IV, Suite 401
100 Mulberry St.
Newark, NJ 07102
Email: tmcdonough@eckertseamans.com
Tel: 973.855.4724
Fax: 973.855.4701

Edward C. Flynn (*pro hac vice*)
ECKERT SEAMANS CHERIN & MELLOTT, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Email: eflynn@eckertseamans.com
Tel: 412.566.6984
Fax: 412.566.6099

Carson M. Shea (admitted *pro hac vice*)
ECKERT SEAMANS CHERIN & MELLOTT LLC
Two International Place, 16th Floor
Boston, MA 02110
Email: cshea@eckertseamans.com
Tel: 617.342.6830
Fax: 617.342.6899

Trevin C. Schmidt (admitted *pro hac vice*)
ECKERT SEAMANS CHERIN & MELLOTT LLC
Two International Place, 16th Floor
Boston, MA 02110
Email: tschmidt@eckertseamans.com
Tel: 617.342.6814
Fax: 617.342.6899

Counsel for Patent Owner Cambria County Association for the Blind and Handicapped, Inc.

CERTIFICATE OF SERVICE

I certify that on this 13th day of December, 2024, a true and correct copy of the foregoing **MOTION TO SEAL PATENT OWNER'S SUR-REPLY AND EXHIBIT IN SUPPORT OF PATENT OWNER'S SUR-REPLY** was served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

KCAmendt@mintz.com;
WSDixon@mintz.com;
RCSweeney@mintz.com;
MSGalica@mintz.com;
CAB_AWM@mintz.com.

Dated: December 13, 2024

/ Daniel J. Melman /
Daniel J. Melman (Reg. No. 55,451)