

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.

IPR2024-00178
Patent 11,349,291

**MOTION TO SEAL PATENT OWNER'S RESPONSE AND
EXHIBITS IN SUPPORT OF PATENT OWNER'S RESPONSE**

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 Response and certain exhibits filed in support of Patent Owner’s Response. 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 30 (filed July 23, 2024). Pursuant to Section 1 of the proposed Protective Order, Patent Owner has designated as “CONFIDENTIAL PROTECTIVE ORDER MATERIAL” its Patent Owner’s Response and the following exhibits: EX2006, EX2008, EX2010-EX2015, EX2017, EX2019, EX2028, EX2030-EX2032, EX2038, EX2041-EX2044, EX2046, EX2049-EX2054, EX2056, and EX2057. Patent Owner has filed public versions of its Patent Owner’s Response and these exhibits with the Confidential Information¹ redacted.

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

¹ As defined in the proposed Protective Order. Paper 30, 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 Response and Exhibits in Support of Patent Owner’s Response.

The Patent Owner’s Response and certain exhibits 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, many of the exhibits contain customer information, including names of customers and contact information. *See* EX2006, EX2013-EX2015, EX2017, EX2019, EX2042, EX2043, EX2044, EX2050-EX2054,

EX2056, EX2057. 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, EX2030, EX2038, EX2041, EX2042, EX2043, EX2046, EX2050-2054, and EX2056 contain confidential and proprietary part numbers and product pricing, which is information that this Board has sealed in other proceedings. *See, e.g., Blackberry Corp. & Blackberry Ltd. Petitioner v. Wi-Lan Usa Inc. Pat. Owner*, No. IPR2013-00126, 2013 WL 6576699, at *3 (P.T.A.B. Nov. 5, 2013) (granting motion to seal document containing product pricing).

EX2006, EX2044, EX2046, EX2049, and EX2056 contain 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”).

EX2006, EX2008, EX2010-EX2012, EX2013, EX2014, EX2028, EX2030-2032, EX2038, EX2041, EX2050-EX2054, EX2056, and EX2057 contain information concerning CAB’s research and development efforts, specific prototype and product testing, and specifications and drawings of its patented products. The Board ordinarily grants motions to seal research and development and technical product information. *See Mylan Pharms. Inc. v. Sanofi-Aventis Deutschland GmbH*, No. IPR2017-01528, 2018 WL 6584640, at *22 (P.T.A.B. Dec. 12, 2018) (granting motion to seal “confidential and proprietary research and development information”); *Fujifilm Corp. v. Sony Corp.*, No. IPR2017-00360, 2018 WL 2254276, at *13 (P.T.A.B. May 16, 2018) (granting motion to seal technical information about the parties’ products).

The Patent Owner’s Response incorporates, discusses, and analyzes the information contained in the exhibits, and therefore, contains the same Confidential Information that should not be disclosed and be filed under seal.

Patent Owner does not publicly disclose the information contained in its Patent Owner’s Response and these exhibits, and maintains this information in confidence. Specifically, Patent Owner’s engineering drawings and technical

information about its products are not publicly available, and are provided to customers and potential customers only upon execution of a non-disclosure agreement. Information related to Patent Owner’s research and development efforts, product design and specifications, 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 Response and EX2006, EX2008, EX2010-EX2015, EX2017, EX2019, EX2028, EX2030-

EX2032, EX2038, EX2041-EX2044, EX2046, EX2049-EX2054, EX2056,
and EX2057 to be available on the public docket; and

C. Order that the unredacted versions of the Patent Owner's Response and
EX2006, EX2008, EX2010-EX2015, EX2017, EX2019, EX2028, EX2030-
EX2032, EX2038, EX2041-EX2044, EX2046, EX2049-EX2054, EX2056,
and EX2057 be filed under seal.

Respectfully submitted,

Dated: July 25, 2024 By: / Daniel J. Melman /
Daniel J. Melman (Reg. No. 55,451)
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CERTIFICATE OF SERVICE

I certify that on this 25th day of July, 2024, a true and correct copy of the foregoing **MOTION TO SEAL PATENT OWNER’S RESPONSE AND EXHIBITS SUBMITTED IN SUPPORT OF PATENT OWNER’S RESPONSE** 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;
CAB_AWM@mintz.com.

Dated: July 25, 2024

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