

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.

Case No. IPR2024-00178
U.S. Patent No. 11,349,291 B2

**MOTION TO SEAL PETITIONER'S REPLY AND EXHIBITS IN
SUPPORT OF PETITIONER'S REPLY**

I. INTRODUCTION

Pursuant to 37 C.F.R. §§ 42.14, 42.54 and Paper 36 (Order Granting Patent Owner’s Motion to Seal and Motion for Entry of Protective Order), Petitioner Affordable Wire Management, LLC respectfully submits this Motion to Seal its Petitioner’s Reply to the Patent Owner’s Response, as well as certain exhibits filed in support of Petitioner’s Reply to the Patent Owner’s Response.

The Board entered the agreed-upon Protective Order on August 16, 2024. *See* Paper 36. Pursuant to Section 1 of the Protective Order, Patent Owner Cambria County Association for the Blind and Handicapped, Inc. has designated as “CONFIDENTIAL PROTECTIVE ORDER MATERIAL” certain information recited in the Petitioner’s Reply to the Patent Owner’s Response and the following exhibits: EX1028, EX1031, EX1033, EX1047, EX1048, EX1055. Petitioner has filed public versions with the Confidential Information redacted from its Petitioner’s Reply to the Patent Owner’s Response and the identified exhibits.

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

II. ARGUMENT

The Board may grant a motion to seal for “good cause.” 37 C.F.R. § 42.54. Here, good cause exists. Patent Owner has designated the information sought to be

sealed as Confidential Information pursuant to the protective order, Paper 30, Ex. A. This information comprises “confidential research, development, or commercial information,” precisely the type of information the Board considers confidential. *See* 37 C.F.R. § 42.54(a); PTAB Consolidated Trial Practice Guide (“CTPG”), 19. Specifically, the documents sought to be sealed discuss materials the Board routinely seals:

- customer information, including names of customers and contact information (EX1028, EX1033, EX1048, EX1055), *see 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);
- Patent Owner’s confidential and proprietary part numbers and product pricing (EX1031, EX1047, EX1048, EX1055), *see Blackberry Corp. & Blackberry Ltd. v. Wi-Lan Usa Inc.*, No. IPR2013-00126, 2013 WL 6576699, at *3 (P.T.A.B. Nov. 5, 2013) (granting motion to seal document containing product pricing);
- Patent Owner’s financial information, including sales data, revenues, sales growth, product pricing, part numbers, and other financial

information concerning Patent Owner's products (EX1028, EX1033, EX1048, EX1055), *see 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"); and

- information concerning Patent Owner's research and development efforts, specific prototype and product testing, and specifications and drawings of its products (EX1028, EX1031, EX1047), *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 Petitioner's Reply to 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 should be filed under seal.

Patent Owner has represented that it does not publicly disclose the information in the above-identified exhibits and the Petitioner's Reply to the Patent Owner's Response. See IPR2024-00178, Paper 33; IPR2024-00139, Paper 31. Specifically, Patent Owner argued:

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 ...”).

Paper 33, 6. For the same reasons, good cause exists to seal the information identified in this motion. The information Petitioner seeks to seal is effectively identical to the materials Patent Owner sought to seal in this proceeding (IPR2024-00178) and a related proceeding between the parties (IPR2024-00139). *See* IPR2024-00178, Paper 33; IPR2024-00139, Paper 31. As discussed above, the Board has already granted Patent Owner’s motion to seal in this proceeding, *see* Paper 36., and Petitioner respectfully requests that the Board grant this motion.

III. CONCLUSION

Petitioner respectfully requests that the Board:

1. Grant this Motion to Seal;
2. Accept for filing the redacted versions of the Petitioner’s Reply to the Patent Owner’s Response and EX1028, EX1031, EX1033, EX1047, EX1048, and EX1055 to be available on the public docket; and
3. Order that the unredacted versions of the Petitioner’s Reply to the Patent Owner’s Response and EX1028, EX1031, EX1033, EX1047, EX1048, EX1055 be filed under seal.

Dated: October 17, 2024

/Kevin C. Amendt/

Kevin C. Amendt (Reg. No. 69,361)
Williams S. Dixon (Reg. No. 78,346)
Matthew S. Galica (*pro hac vice*)
Robert C. Sweeney (*pro hac vice*)
MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
One Financial Center
Boston, MA 02111
Telephone: 617-348-1793
Facsimile: 617-542-2241
E-mail: KCAmendt@mintz.com
WSDixon@mintz.com
MSGalica@mintz.com
RCSweeney@mintz.com

*Counsel to Petitioner Affordable Wire
Management, LLC*

CERTIFICATE OF SERVICE

I certify that a copy of Petitioner's Motion to Seal was served by electronic mail on the following counsel of record:

Daniel J. Melman	Theodore Y. McDonough
Eckert Seamans Cherin & Mellott LLC	Eckert Seamans Cherin & Mellott LLC
10 Bank St.	Gateway IV, Suite 401
Suite 700	100 Mulberry St.
White Plains, NY 10606	Newark, NJ 07102
dmelman@eckertseamans.com	tmcdonough@eckertseamans.com
ESCMCAB-AWM@eckertseamans.com	ESCMCAB-AWM@eckertseamans.com

Edward C. Flynn	Carson M. Shea
Eckert Seamans Cherin & Mellott, LLC	Trevin C. Schmidt
600 Grant Street	Eckert Seamans Cherin & Mellott, LLC
44 th Floor	Two International Place
Pittsburg, PA 15219	16th Floor
eflynn@eckertseamans.com	Boston, MA 02110
	cshea@eckertseamans.com
	tschmidt@eckertseamans.com

Dated: October 17, 2024

/Kevin C. Amendt/

Kevin C. Amendt (Reg. No. 69,361)