UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELTA ELECTRONICS, INC.

Petitioner

v.

VICOR CORPORATION

Patent Owner

IPR2024-00187
Patent No. 9,166,481

PATENT OWNER'S UNOPPOSED MOTION UNDER 37 C.F.R. §42.56 TO EXPUNGE EXHIBIT 2032

I. STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. §42.56, Patent Owner Vicor Corporation ("Vicor") respectfully submits this Motion to Expunge Exhibit 2032 from the record.

Exhibit 2032 is currently under seal and contains Patent Owner's confidential information. Patent Owner certifies that Exhibit 2032 has not otherwise been made public.

Patent Owner has conferred with Petitioner and Petitioner's counsel indicated that Petitioner would not oppose the present motion. For the reasons set forth below, Patent Owner requests Exhibit 2032 containing confidential technical information be expunged.

A. Legal standard

Pursuant to 37 C.F.R. § 42.56, after termination of a inter partes review, "a party may file a motion to expunge confidential information from the record." 37C.F.R. § 42.56. As the Consolidated Trial Practice Guide explains,

> "[t]here is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public."

Consolidated Trial Practice Guide at 22. A party moving to expunge must show

good cause by demonstrating that: (1) "any information sought to be expunged constitutes confidential information"; and that (2) the moving party's "interest in expunging it outweighs the public's interest in maintaining a complete and understandable file history." *RPX Corp. v. Virnetx Inc.*, IPR2014-00171, Paper 62 at 3 (P.T.A.B. Sept. 9, 2014) (granting expungement of documents); *Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, IPR2013-00453, Paper 97 at 2, 4 (P.T.A.B. Apr. 15, 2015) (expungement proper where record retains material providing factual underpinning to P.T.A.B. decision). Confidential information includes "a trade secret or other confidential research, development, or commercial information." 37 C.F.R. § 42.54 and 37 C.F.R. § 42.2.

B. The document sought to be expunged contains confidential technical information.

As explained in Patent Owner's Motion to Seal and for Entry of Protective Order (Paper 8), Exhibit 2032 contains confidential information as defined by the PTAB's rules. Specifically, Exhibit 2032 includes confidential and highly-sensitive information regarding the structure and operation of Vicor's NBM2317 products, including circuit diagrams. The information in Exhibit 2032 is not publicly available and continues to be confidential.

Vicor faces concrete harm if the information is made available to the public. In particular, competitors and other third-parties could exploit the information for

their own benefit to design competitive products, thereby saving time and research effort and attaining a competitive advantage merely from having access to the confidential information.

Because the exhibit Patent Owner seeks to expunge clearly contains non-public proprietary information that the Patent Owner maintains as confidential, that exhibit meets the definition of confidential information that may be expunged from the record. *See* 37 C.F.R. § 42.54 and 37 C.F.R. § 42.2.

C. Patent Owner's interest in expunging Exhibit 2032 outweighs the public's interest in maintaining a complete and understandable file history.

Patent Owner's interest in expunging Exhibit 2032 outweighs the public's interest in maintaining a complete file history. In its Institution Decision, the Board did not rely on or disclose the information contained in Exhibit 2032. *See* Paper 10 at 68.

Furthermore, the amount of material to be expunged is limited and not important for understanding the nature of Patent Owner's arguments. Patent Owner has kept the confidential information limited to a single exhibit, such that the public is able to understand the basis of Patent Owner's arguments without needing the confidential information at issue. *See* Exhibit 2032. As stated in the non-confidential declaration of Patrizio Vinciarelli (Exhibit 2030, ¶35), it is clear that Exhibit 2032 is intended to show that Vicor NBM2317 products meet certain

claims of the ’950, ’481, and ’761 patents at-issue in three IPR proceedings filed by Delta (IPR2024-00134, IPR2024-00187, and IPR2024-00227). Thus, the import of the content of Exhibit 2032 will be known to the public reviewing the file, but not the specific implementation details of Vicor’s products, which remain confidential. Thus, any public interest in having access to Exhibit 2032 does not outweigh the harm faced by Vicor. *See RPX*, IPR2014-00171, Paper 62 at 6 (allowing redaction of sentence in Decision Denying Institution where “[t]he sentence is not required for a complete understanding of the record and is not material to the Decision Denying Institution.”); *Atlanta Gas*, IPR2013-00453 at 4 (granting motion to expunge where “[a]fter expungement of the documents requested by Petitioner, the record will retain material that provides the factual underpinnings for our Termination Order.”)

I. CONCLUSION

For at least these reasons, Patent Owner respectfully requests that the Motion to Expunge be granted and that Exhibit 2032 be expunged from the record. Alternatively, Patent Owner requests that Exhibit 2032 be kept under seal until thirty days after the conclusion of any further proceedings, should they be sought by the Petitioner, so that Patent Owner can renew or refile its Motion to Expunge.

Date: June 20, 2024	/Matthew A. Smith/ (RN 49,003) Matthew A. Smith SMITH BALUCH LLP 700 Pennsylvania Ave SE, Ste 2060 Washington, DC 20003 (202) 669-6207 smith@smithbaluch.com *Counsel for Patent Owner Vicor Corporation*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion to Expunge Exhibit 2032 was served by electronic mail on June 20, 2024, on the Petitioner's counsel of record at the United States Patent & Trademark Office having the following addresses:

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Date: June 20, 2024 /Matthew A. Smith/ (RN 49,003)

CERTIFICATE OF WORD COUNT

The undersigned hereby certifies that the foregoing Motion to Expunge Ex. 2032 contains 833 words according to the word processing program used to prepare it.

Date: June 20, 2024 /Matthew A. Smith/ (RN 49,003)