

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PROVISUR TECHNOLOGIES, INC.,
Petitioner,

v.

TEXTOR MASCHINENBAU GMBH,
Patent Owner.

Case IPR2024-00224
Patent No. 9,457,487 B2

**PETITIONER'S MOTION TO SEAL EXHIBITS,
PETITIONER'S REPLY, PETITIONER'S OPPOSITION
TO MOTION TO AMEND UNDER 37 C.F.R. § 42.54**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.54, Petitioner, Provisur Technologies, Inc. (“Petitioner” or “Provisur”) respectfully submits this Motion to Seal the unredacted versions of Petitioner’s Reply, Petitioner’s Opposition to Motion to Amend, EX1047, EX1053, EX1054, EX1056, EX1057, EX1058, EX1059, EX1061, EX1064, EX1065, EX1069, EX1070, and EX1071. Public, redacted versions of these documents are submitted with this motion in accordance with Board procedures.

Provisur files this motion to seal pursuant to the procedures of Section 5(A)(ii) of the Protective Order because Patent Owner, Textor Maschinenbau GmbH (“Textor” or “Patent Owner”), has identified EX1047, EX1053, EX1054, EX1056, EX1057, EX1058, EX1059, EX1061, EX1064, EX1065, EX1069, EX1070, and EX1071 as confidential. Pursuant to the procedures of Section 5(A)(ii) of the Protective Order, Provisur has filed confidential and non-confidential versions of Petitioner’s Reply, Petitioner’s Opposition to Motion to Amend, EX1047, EX1053, EX1054, EX1056, EX1057, EX1058, EX1059, EX1061, EX1064, EX1065, EX1069, EX1070, and EX1071.

II. GOVERNING RULES AND PTAB GUIDANCE

Under 35 U.S.C. § 316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public, but a party may file a

motion to seal and the information at issue is sealed pending the outcome of the motion.

Similarly, 37 § 42.14 provides:

The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.

Federal Rule of Civil Procedure Rule 26(c)(1)(G) provides that confidential information may be protected by a Protective Order:

requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way[.]

The Trial Practice Guide and PTAB Rules adopt this definition:

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.

Consolidated Trial Practice Guide November 2019 at 19.

III. IDENTIFICATION OF ALLEGED CONFIDENTIAL INFORMATION

Textor describes the alleged confidential information as confidential because it either directly quotes confidential material or characterizes confidential material in a way that publicly reveals the content of the confidential material. 37 C.F.R. § 42.54.

IV. REASONS FOR SEALING THE ALLEGED CONFIDENTIAL INFORMATION

Documents similar to EX1057, EX1058, EX1059, EX1064, EX1065, EX1069, EX1070, and EX1071 were produced under the protections of a protective order in a parallel litigation between the parties. In the parallel litigation, Textor has identified the documents as containing confidential information. Textor identified information in EX1047, EX1053, EX1054, EX1056, and EX1061 as confidential in this proceeding. Provisur made redactions to its Reply and Opposition, accordingly.

V. RELIEF REQUESTED

For the reasons stated above, and in compliance with the Board's order, this motion seeks that the Board seal and protect Textor's designated confidential information contained in the confidential version of Petitioner's Reply, Petitioner's

Opposition to Motion to Amend, EX1047, EX1053, EX1054, EX1056, EX1057, EX1058, EX1059, EX1061, EX1064, EX1065, EX1069, EX1070, and EX1071. The parties further request that the Board seal and protect the designated confidential information in the document until such time as it receives and rules on this Motion.

Respectfully Submitted,

Dated: September 27, 2024

/s/ Michael G. Babbitt/

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CERTIFICATE OF SERVICE

I hereby certify that on September 27, 2024, I caused a true and correct copy of the foregoing materials:

- PETITIONER’S MOTION TO SEAL EXHIBITS, PETITIONER’S REPLY, PETITIONER’S OPPOSITION TO MOTION TO AMEND UNDER 37 C.F.R. § 42.54

To be served via electronic mail to Patent Owner’s Attorney of Record as provided for in the service information in Patent Owner’s Updated Mandatory Notices:

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