

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PROVISUR TECHNOLOGIES, INC.,
Petitioner,

v.

TEXTOR MASCHINENBAU GMBH,
Patent Owner.

IPR2024-00224
Patent 9,457,487 B2

Before JEREMY M. PLENZLER, CARL M. DeFRANCO, and
JASON W. MELVIN, *Administrative Patent Judges*.

DeFRANCO, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Motion for Protective Order
Granting Patent Owner's Motions to Seal
37 C.F.R. §§ 42.5, 42.54

Introduction

In a separate combined motion, Patent Owner moves for entry of a protective order and to seal confidential versions of Exhibits 2008–2013 as referenced in a confidential version of its Patent Owner Response (Paper 17). *See* Paper 14. In another motion, Patent Owner seeks to seal a confidential version of its Sur-Reply (Paper 52). *See* Paper 43. Petitioner does not oppose these motions.

Legal Standard

The standard for granting a motion to seal and entry of a protective order is “for good cause.” *See* 37 C.F.R. § 42.54(a). The moving party bears the burden to show entitlement to the requested relief and to establish that the information sought to be sealed is confidential information. *See id.* §§ 42.54(a), 42.20(c). The “good cause” standard for granting a motion to seal reflects the strong public policy for making all information in an *inter partes* review open to the public. *Argentum Pharms. LLC v. Alcon Rsch., Ltd.*, IPR2017-01053, Paper 27, 3 (PTAB Jan. 19, 2018) (informative). In assessing whether the standard has been met, we may consider whether the information at issue is truly confidential, whether harm would result from public disclosure of the information, and whether the interest in maintaining the information’s confidentiality outweighs the strong public interest in an open record. *Id.* at 3–4.

Motion for Entry of Protective Order

In its motion, Patent Owner seeks entry of a protective order in the form attached as “Exhibit A” to the motion. *See* Paper 14, 2. Patent Owner represents that the protective order of Exhibit A “proposes limited revisions to the [Board’s] Default Protective Order to preclude ‘Parties’ and ‘In-house

counsel’ from having access to the confidential versions of [certain identified] Exhibits.” *Id.* n.1; *see also* Office Consolidated Trial Practice Guide (Nov. 2019), App. B (“Default Protective Order”).

Based on the above representations, we find that good cause exists for entry of a protective order. Thus, we grant Patent Owner’s motion for entry of a protective order (Paper 14) and enter the Protective Order as filed with the motion, i.e., Exhibit A.

Motions to Seal

Patent Owner has filed two motions to seal. *See* Papers 14, 43. First, Patent Owner moves to seal confidential versions of Exhibits 2008–2013 as submitted with its Patent Owner Response (Paper 17). *See* Paper 14, 2. In doing so, Patent Owner represents that: “Exhibits 2008, 2009, 2011, and 2013 contain confidential commercial information such as sensitive customer, sales, and pricing information,” “Exhibits 2011 and 2012 contain sensitive information regarding product development,” and that all these exhibits include information subject to “the protections of a protective order in a parallel litigation between the parties.” *Id.* at 4.

Second, Patent Owner moves to seal a confidential version of its Sur-Reply (Paper 52). *See* Paper 43, 2. According to Patent Owner, the Sur-Reply “contains confidential information including technical details from Petitioner’s commercial embodiments” and that such information is subject to “the protections of a protective order in a parallel litigation between the parties.” *Id.* at 3–4.

Based on the above representations, we find that good cause exists for sealing the confidential versions of Patent Owner’s Response (Paper 17) and

Sur-Reply (Paper 52), as well as the confidential versions of Exhibits 2008–2013. Thus, we grant Patent Owner’s motions to seal.

Order

Accordingly, it is

ORDERED that Patent Owner’s unopposed motion (Paper 14) for entry of a protective order is *granted*;

FURTHER ORDERED that the Protective Order (Paper 14, Ex. A) is *entered*;

FURTHER ORDERED that Patent Owner’s motions to seal (Papers 14 and 43) are *granted*; and

FURTHER ORDERED that confidential versions of Patent Owner’s Response (Paper 17), Patent Owner’s Sur-Reply (Paper 52), and Exhibits 2008–2013, shall remain sealed until ordered otherwise.

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