

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DELTA ELECTRONICS, INC.,  
Petitioner,

v.

VICOR CORPORATION,  
Patent Owner.

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IPR2024-00227  
Patent 9,516,761 B2

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Before GEORGIANNA W. BRADEN, KARA L. SZPONDOWSKI, and  
IFTIKHAR AHMED, *Administrative Patent Judges*.

AHMED, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Motion for Entry of Protective Order;  
Granting Petitioner's Motion to Seal  
*37 C.F.R. §§ 42.5, 42.14, 42.54*

On November 22, 2023, Delta Electronics, Inc. (“Petitioner”) filed a Motion to Seal (Paper 3, “Motion”) and a Motion for Entry of the Default Protective Order (Paper 4, “PO Motion”). In its motion to seal, Petitioner requests that Exhibit 1025 be sealed because it contains sensitive, nonpublic information.<sup>1</sup> Mot. 1. In its motion for a protective order, Petitioner seeks the entry of the default protective order found in the Board’s Consolidated Trial Practice Guide,<sup>2</sup> App’x B (“Default Protective Order”) in this proceeding. PO Mot. 1–2. Vicor Corporation (“Patent Owner”) has not filed an Opposition to either motion and consents to the entry of the default protective order. *See* Ex. 3001.

A motion to seal may only be granted on a showing of good cause. 37 C.F.R. § 42.54(a). In general, the Board’s “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.” TPG at 19. The rules identify confidential information as “trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54). Applying the rules, the Board has required that a movant to seal must demonstrate adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest

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<sup>1</sup> Petitioner’s motion also refers to Exhibits 1017–1020 (Mot. 1), but those exhibits are publicly available documents not filed under seal. We consider Petitioner’s reference to those exhibits to be in error.

<sup>2</sup> Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated> (“TPG”).

in maintaining confidentiality outweighs the strong public interest in having an open record.

*Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 4 (PTAB Jan. 19, 2018) (informative). A protective order may be entered for good cause by the Board to protect a party from disclosing confidential information. 37 C.F.R. § 42.54(a).

Petitioner contends that Exhibit 1025 is a copy of infringement contentions served on Petitioner under a protective order in an ongoing ITC proceeding between the Petitioner and Patent Owner and that these contentions include confidential proprietary and confidential business information of Petitioner. Mot. 2 (citing *In the Matter of CERTAIN POWER CONVERTER MODULES AND COMPUTING SYSTEMS CONTAINING THE SAME*, Inv. No. 337-TA-1370, USITC Pub. 802674 (Aug. 18, 2023)). Applying the factors laid out in *Argentum Pharms.*, Petitioner contends that good cause exists to grant the motion to seal. *Id.* (citing *Argentum Pharms. LLC*, IPR2017-01053, Paper 27 at 4). Petitioner contends that the information it seeks to seal is truly proprietary and confidential, and involves Petitioner's accused product as well as how Petitioner's accused product is alleged to infringe the claims of U.S. Patent No. 9,516,761 B2 ("the '761 patent"). *Id.* at 2–3. According to Petitioner, disclosure of the confidential information would expose Petitioner's customers and suppliers and their confidential information to third parties and may jeopardize Petitioner's contractual arrangements. *Id.* at 3. Petitioner also asserts that the information that is sought to be sealed is entirely unrelated to the substantive patentability of the '761 patent. *Id.* at 3–4. Lastly, Petitioner contends that public interest in having access to this confidential information is minimal and outweighed by the interest in maintaining confidentiality. *Id.* at 4–5.

We have considered Petitioner's contentions and are persuaded that Petitioner has shown good cause for maintaining Exhibit 1025 under seal. Accordingly, we *grant* Petitioner's Motion to Seal (Paper 3) and Motion for Entry of the Default Protective Order (Paper 4). This matter shall be governed by the Default Protective Order set forth in the Consolidated Trial Practice Guide, and Petitioner's confidential information shall be considered designated "PROTECTIVE ORDER MATERIAL" under that Order. *See* TPG, App'x B.

#### ORDER

It is, therefore,

ORDERED that Petitioner's Motion to Seal (Paper 3) is *granted*;

FURTHER ORDERED that Petitioner's Motion for Entry of the Default Protective Order (Paper 4) is *granted*; and

FURTHER ORDERED that this matter shall be governed by the Default Protective Order set forth in the TPG, and Petitioner's confidential information shall be considered designated "PROTECTIVE ORDER MATERIAL" under that Order.

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Patent 9,516,761 B2

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