

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NJOY, LLC and NJOY HOLDINGS, INC.,
Petitioner,

v.

JUUL LABS, INC.,
Patent Owner.

IPR2024-00231
Patent 10,130,123 B2

Before CHRISTOPHER M. KAISER, KIMBERLY McGRAW, and
AVELYN M. ROSS, *Administrative Patent Judges*.

ROSS, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Unopposed Motions to Seal (Papers 23, 37)
Granting Petitioner's Unopposed Motion to Seal (Paper 28)
37 C.F.R. § 42.55

Patent Owner filed (1) a motion to seal its Patent Owner Response (Paper 21) and Exhibit 2053 and (2) a motion to seal its Patent Owner Surreply (Paper 35). Paper 23, 1; Paper 37. Petitioner filed a motion to seal its Reply to Patent Owner's Response (Paper 29) and Exhibit 1043. Paper 28, 1. For the reasons that follow, Patent Owner's motions and Petitioner's motion are granted.

I. PATENT OWNER'S MOTIONS TO SEAL

Patent Owner filed a motion to seal the unredacted version of the Patent Owner Preliminary Response (Paper 21) and the unredacted version of the Declaration filed in support thereof (Exhibit 2053). Paper 23, 1. Exhibit 2053 "cite[s], describe[s], and quote[s] Exhibits 2003, 2025, 2026, and 2041, which are Exhibits which Patent Owner previously moved to seal (Paper 9) and which the Board granted (Paper 14)." *Id.* Patent Owner reasons that because the Board has already entered an order protecting the cited exhibits, Exhibit 2053 and the Patent Owner Response "likewise qualify for the same protection." *Id.* Patent Owner filed a redacted version of the Patent Owner Response (Paper 22) and Exhibit 2053. *Id.* at 2.

In addition, Patent Owner filed a motion to seal the unredacted version of the Patent Owner Surreply (Paper 35). Paper 37, 1. Patent Owner explains that the Surreply "cite[s], describe[s], and quote[s] Exhibits 2003 which Patent Owner previously moved to seal (Paper 9) and which the Board granted (Paper 14)." *Id.* Patent Owner reasons that because the Board has already entered an order protecting Exhibit 2003, its Surreply "likewise qualif[ies] for the same protection." *Id.* Patent Owner filed a redacted version of its Surreply (Paper 36). *Id.*

The standard for granting a motion to seal is "good cause." 37 C.F.R. § 42.54. The party moving to seal bears the burden of proof of showing entitlement to the requested relief, and establishing that information sought to be

sealed is confidential information. 37 C.F.R. § 42.20(c). Confidential information includes, but is not limited to, trade secret or other confidential research, development, or commercial information. 37 C.F.R. § 42.54(7).

Upon considering the contents of the confidential Exhibit 2053, the Patent Owner Response, and the Patent Owner Surreply, along with Patent Owner's representation as to confidentiality of the information contained in these papers, we determine that Patent Owner has sufficiently shown good cause for sealing these documents.

II. PETITIONER'S MOTION TO SEAL

Petitioner filed a motion to seal the unredacted version of Petitioner's Reply to Patent Owner's Preliminary Response (Paper 29) as well as Exhibit 1043, which are cited and discussed in the Reply. Paper 28, 1. Petitioner states that its "Reply and Exhibit 1043 cite, describe, and/or quote Exhibit 2003 which Patent Owner previously moved to seal (Paper 9) and which the Board granted (Paper 14). *Id.* Petitioner reasons that because the Board has already entered an order protecting Exhibit 2003, Exhibit 1043 and the Petitioner Reply "likewise qualify for the same protection." *Id.* Petitioner filed redacted versions of the Petitioner Reply (Paper 30) and Exhibit 1043. *Id.* at 2.

Upon considering the contents of confidential Exhibits 1043 and the Reply, along with Petitioner's representation as to the confidentiality of the information contained in these papers, we determine that Petitioner has sufficiently shown good cause for sealing these documents. 37 C.F.R. § 42.54.

III. NOTICE OF POSSIBLE DISCLOSURE

In an inter partes review, "the default rule is that all papers . . . are open and available for access by the public." *Garmin Int'l v. Cuozzo Speed Techs., LLC*,

Case IPR2012-00001 (PTAB Mar. 14, 2013) (Paper 34, 2). We remind both parties that there is an expectation that information will be made public where the existence of the information is identified in a final written decision following a trial. Rules of Practice, 77 Fed. Reg. No. 157, Part V at Section I.E.6. (Aug. 14, 2012). Additionally, the parties are reminded that confidential information that is subject to a protective order in these proceedings ordinarily will become public 45 days after final judgment in a trial. *Id.* And, a motion to expunge the information will not necessarily prevail over the public interest in maintaining a complete and understandable file history.

IV. CONCLUSION

For the foregoing reasons, we grant Patent Owner's unopposed Motions to Seal (Papers 23, 37) and Petitioner's unopposed Motion to Seal (Paper 28).

V. ORDER

Accordingly, it is:

ORDERED that Patent Owner's unopposed Motion to Seal (Paper 23) is granted with respect to the unredacted version of the Patent Owner Response (Paper 21) and Exhibit 2053;

FURTHER ORDERED that Patent Owner's unopposed Motion to Seal (Paper 37) is granted with respect to the unredacted version of Patent Owner's Surreply (Paper 35); and

FURTHER ORDERED that Petitioner's unopposed Motion to Seal (Paper 28) is granted with respect to the unredacted version of the Petitioner's Reply (Paper 29) to Patent Owner's Response and Exhibit 1043.

IPR2024-00231
Patent 10,130,123

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