UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SEMICONDUCTOR COMPONENTS INDUSTRIES, LLC,
Petitioner

v.

GREENTHREAD LLC,
Patent Owner

Case IPR2024-00263
U.S. Patent No. 11,316,014

PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO SEAL FILED MAY 8, 2024

Petitioner Semiconductor Components Industries, LLC, d/b/a onsemi, submits this Opposition to Patent Owner ("PO") Greenthread, LLC's Motion to Seal (Paper 12) filed May 8, 2024.[1] The Motion to Seal requests sealing Patent Owner's Preliminary Response ("POPR") (Paper 13) and Exhibit 2063 "in their entirety." Paper 12 at 1. Petitioner opposes the Motion to Seal.

I. THE MOTION SHOULD BE DENIED

Petitioner respectfully submits that sealing the "entirety" of the POPR is inappropriate. PO's Motion to Seal argues that there is good cause to seal the entirety of the POPR because "Patent Owner is under confidentiality obligations regarding licensing information referenced therein." Paper 12 at 1. But "licensing information" is not referenced by or relevant to any of the patentability arguments PO advances in the POPR, which span almost half of the entire brief. Paper 13 at 1-18. There is no reason to seal the entirety of a brief when much of it does not implicate any potentially confidential information. And regarding the portions of the POPR that do implicate "licensing information," PO appears to acknowledge that they should not be sealed entirely, noting it "believes that some of [the licensing information] may be public" and that "Patent Owner itself does not desire to

[1] This opposition is timely filed within one month of service of the Motion to Seal. 37 C.F.R. § 42.25(a)(1).

maintain the confidentiality of the information." Paper 12 at 1. At bottom, any "confidentiality obligations" do not prevent PO from proposing, or filing, public versions of its briefs and exhibits with redactions to truly confidential information.

Petitioner does not oppose PO filing papers or exhibits, that PO believes contain allegedly confidential information, as available to the Parties and Board only, along with public versions of these documents with reasonable redactions, or PO filing motions to seal to support its assertions that the alleged confidential information should be sealed. Petitioner *does oppose*: (1) PO's continued practice of requesting that the *entirety* of all papers in this proceeding are sealed, without any justification, and without proposing or filing any redacted versions that are available to the public, and (2) PO's continued filing of motions to seal that include little or no explanation as to why any of the information it seeks to seal is actually confidential. It is improper for PO to file cursory motions to seal that do not explain why the *entirety* of briefing should under seal—especially when much of the briefing does not even implicate any alleged confidential information.

Strong public policy exists for making all information in an *inter partes* review open to the public. *Garmin Int'l v. Cuozzo Speed Techs., LLC,* IPR2012-00001, Paper 34 at 1-2 (PTAB Mar. 14, 2013). All papers filed in *inter partes* reviews are by default available to the public. 35 U.S.C. § 316(a)(1). "[C]onfidential

information" may be granted protection from disclosure only "for good cause." 37 C.F.R. § 42.54(a); 35 U.S.C. § 316(a)(7).

Parties moving to seal have "the burden of showing that the relief requested should be granted" and that an interest in confidentiality "outweighs the strong public interest in having an open record." *Argentum Pharm. LLC,* IPR2017-01053, Paper 27 at 2, 4; 37 C.F.R. § 42.20(c). In meeting this burden, Patent Owner must show that the information it seeks to seal is "truly confidential" and "concrete harm would result upon public disclosure." *Id.* "Few, if any, exhibits, even business records, should ever be confidential in their entirety, without good cause to show that *all* of the information contained therein is truly sensitive." *Edwards Lifesciences Corp. v. Boston Scientific Scimed, Inc.,* IPR2017-00060, Paper 24 at 7 (FN3) (PTAB July 20, 2017). Moreover, "[a] motion to seal will not be granted if it is based only on broad or generic contentions of confidentiality." *3M Co. v. Westech Aerosol Corp.,* IPR2018-00576, Paper 30 at 5 (PTAB Mar. 15, 2019).

But broad and generic contentions of confidentiality are all PO's Motion to Seal provides; PO has not shown that all information contained in the POPR and Exhibit 2063 is "truly confidential," or that any "concrete harm" will result from its public disclosure. The Motion to Seal does not include an explanation as to why the content it seeks to seal is truly confidential and does not identify any specific aspects of the POPR or Exhibit 2063 that warrants sealing, let alone explain why the entire

brief (including portions irrelevant to any "licensing information") and exhibit should be sealed. The Motion simply states that "Patent Owner is under confidentiality obligations regarding licensing information referenced" in the POPR and Exhibit 2063. Paper 12 at 1. But PO provides no explanation about why its confidentiality obligations require the documents at issue must be sealed in their entirety. *Id.* Because PO has not met its burden, Petitioner respectfully requests the Motion to Seal be denied.

II. PROTECTIVE ORDER

PO did not confer with Petitioner before filing the amended protective order in this proceeding, and Petitioner had no knowledge of it until PO's filing. PO has not explained why an amended protective order is necessary, nor why the default protective order is deficient. Petitioner thus opposes entry of the amended protective order and the designations proposed by PO in the Motion to Seal.

III. CONCLUSION

PO's Motion to Seal should be denied. As with its other motions to seal, PO does not adequately explain why the brief and exhibit it seeks to seal contain any confidential information, let alone why sealing the *entirety* of them is appropriate. If appropriate, the Board may choose to grant PO leave to file another motion to seal or direct PO to file redacted versions of Patent Owner's Preliminary Response and Exhibit 2063.

Dated: June 10, 2024

Respectfully submitted,

/Roger Fulghum/

Roger Fulghum
Reg. No. 39,678
Attorney for Petitioner
BAKER BOTTS L.L.P.
One Shell Plaza
910 Louisiana Street
Houston, TX 77002
T: (713) 229-1234
F: (713) 229-1522

CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. § 42.6(e), the undersigned certifies that on the 10th day of June 2024, a complete and entire copy of this **PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO SEAL FILED MAY 8, 2024**, was served on Patent Owner electronically via email to counsel for the Patent Owner:

Greenthread-OnSemi-MS@mckoolsmith.com

awhitehurst@mckoolsmith.com

nmatich@mckoolsmith.com

ajairam@mckoolsmith.com

smccommas@mckoolsmith.com

nozarkar@mckoolsmith.com

Dated: June 10, 2024

Respectfully submitted,

/Roger Fulghum/
Roger Fulghum
Reg. No. 39,678