

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JEISYS MEDICAL INC.,
Petitioner,

v.

SERENDIA, LLC,
Patent Owner.

IPR2024-00383 (Patent 9,775,774 B2)
IPR2024-00384 (Patent 9,320,536 B2)

Before SHERIDAN K. SNEDDEN, CARL M. DEFRANCO, and
TINA E. HULSE, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

ORDER

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

Introduction

This Order addresses Serendia’s motion for entry of a protective order (Paper 9, “Mot. Prot. Order”) and its motion to seal (Paper 12, “Mot. Seal”).¹ Concurrent with its motion for protective order, Serendia filed a joint proposed protective order (Ex. 2001) and a redline comparison of the proposed order to the Board’s default protective order (Ex. 2002). Also, with respect to its motion to seal, Serendia requests that we seal an unredacted, confidential version of its preliminary response (Paper 13),² as well as Exhibits 2003, 2004, 2015, 2041, 2052, 2054, 2062, 2071, 2084, 2112, 2123, and 2124 (collectively, “Confidential Exhibits”).³

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, at 3 (PTAB Jan. 19, 2018) (informative). In assessing whether the standard has been met, we may consider whether the

¹ Unless otherwise noted, this Order references papers and exhibits in IPR2024-00383. Similar papers and exhibits are also of record in IPR2024-00384 (“the 384 IPR”), albeit some with different numbers.

² Serendia also filed a redacted, public version of its preliminary response. *See* Paper 11.

³ Exhibits 2123 and 2124 are not of record in the 384 IPR, which, instead, includes counterpart Exhibits 2134 and 2135, respectively.

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 Protective Order

Serendia submits that good cause exists for deviating from the Board's default protective order. *See* Mot. Prot. Order 2. In support, Serendia references a parallel United States International Trade Commission ("ITC") proceeding between the parties and explains that the protective order "must be entered before service (actual or effective) of Petitioner's information can take place in this proceeding because the protective order in place in the ITC proceeding does not cover this IPR proceeding." *Id.* at 1–2. As such, Serendia proposes the following changes to the Board's default protective order:

- 1) modify the individuals representing the parties that are allowed access to the information;
- 2) change the burden of deviating from the protective order to the party wishing to deviate from the protective order;
- 3) clarify the interplay between this protective order and protective orders in other proceedings;
- 4) clarify that the obligations of the protective order survive a party's termination; and
- 5) make clerical edits to clean up issues relating to the above.

Id. at 2. According to Serendia, these "changes are intended to match the already-entered protective order between the Parties in the ITC proceeding." *Id.*

From our review, the proposed changes to the Board's default protective order relate largely to limiting the access of in-house counsel and the "Parties" as defined in the default protective order. *See* Ex. 2002, at 1–2.

To that end, Serendia represents that “[i]n the related ITC proceeding, in-house counsel is not permitted to view confidential information of the other parties” and “[g]ood cause supports continuing this restriction in this IPR proceeding because the confidential information likely to be filed in this case is information previously produced in the ITC proceeding and relates to company financials and other sensitive business information.” Mot. Prot. Order 2. Serendia further represents that it and Jeisys “are competitors represented by qualified outside counsel [and] do not significantly benefit in this proceeding from allowing in-house counsel access to such information.” *Id.* Serendia also certifies that Jeisys “agree[s]” to the proposed restrictions on in-house counsel and the parties, as well as the other proposed changes to the Board’s default protective order. *Id.* at 4.

Given the above representations, we find that good cause exists for the proposed changes. Thus, we grant Serendia’s motion for protective order (Paper 9) and enter the protective order as proposed (Exhibit 2001).

Motion to Seal

Serendia moves to seal its unredacted, confidential preliminary response (Paper 13) and the Confidential Exhibits.⁴ Mot. to Seal 1. According to Serendia, the information sought to be sealed includes “confidential technical and financial information,” the public disclosure of which “would significantly harm [Serendia’s] competitive position.” *Id.* Serendia also represents that the information to be sealed falls into one of two categories: “(1) non-public financial and business information (e.g., internal records of revenue and profits and agreements); and (2) non-public

⁴ Jeisys did not oppose Serendia’s motion.

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technical information relating to the design and functionality of [Serendia's] products (e.g., design and technical specification files).” *Id.* at 2.

Based on the above representations, we find that good cause exists for sealing Serendia's unredacted, confidential preliminary response (Paper 13) and the Confidential Exhibits. Thus, we grant Serendia's motion to seal (Paper 12).

Order

Accordingly, it is

ORDERED that Serendia's Unopposed Motion for Entry of Protective Order (Paper 9) is *granted*;

FURTHER ORDERED that the Joint Proposed Protective Order (Exhibit 2001) is *entered*; and

FURTHER ORDERED that Serendia's Motion to Seal (Paper 12) is *granted*.

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