Filed on behalf of: Serendia, LLC

Entered: August 15, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENDYMED MEDICAL LTD. AND ENDYMED MEDICAL, INC.,[1]
Petitioner,

v.

SERENDIA, LLC,
Patent Owner.

Case IPR2024-00384
Patent 9,320,536

PATENT OWNER'S MOTION TO EXPUNGE CONFIDENTIAL INFORMATION FROM THE RECORD

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[1] The Board, in IPR2024-00844, joined EndyMed Medical Ltd. and EndyMed Medical Inc. as petitioners to this proceeding.

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I. Introduction

Pursuant to 37 C.F.R. § 42.56, Patent Owner Serendia, LLC ("Serendia") respectfully moves to expunge the confidential versions of the Patent Owner Preliminary Response (Paper 14), Patent Owner Response (Paper 28), and Exhibits 2003-2004, 2015, 2041, 2052, 2054, 2062, 2071, 2084, 2112, 2134-2135, and 2147 ("the confidential documents") from the record.

The confidential documents include confidential technical and financial information, including financial data, design documents, and business information. These materials relate to the core of Serendia's and its licensee, Benev's, business. Public disclosure of this information would significantly harm their competitive position because it would allow competitors to access sensitive technical information. The public's interests are served by the redacted versions of the Patent Owner Preliminary Response and Patent Owner Response. The Board did not cite or refer to this material in its institution decision, and it had no bearing on the instituted trial, which terminated prior to a final written decision. Thus, Serendia's interest in expunging the confidential version of the confidential documents outweighs the public's interest in maintaining them in the record.

II. Argument

A. Legal Standard

37 CFR § 42.56 provides that following "denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record." *See also* Trial Practice Guide ("TPG"), 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012). The TPG also states that "[t]here is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial." *Id*. However, "[s]uch an expectation ***does not*** arise [where the Board does] not refer to any of the information [a party] seeks to have expunged in [its] Decision … ." *Unified Patents Inc. v. Finjan, Inc.*, IPR2019-01611, Paper 24 at 3 (PTAB Sept. 9, 2020) (emphasis added). Expungement requires good cause by showing "that any information sought to be expunged constitutes confidential information, and that [the party's] interest in expunging it outweighs the public's interest in maintaining a complete and understandable history of this inter partes review." *Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, IPR2013-00453, Paper 97 at 2 (PTAB Apr. 15, 2015); *see also RPX Corp. v. Virnetx Inc.*, IPR2014-00171, Paper 62 at 3 (PTAB Sept. 9, 2014).

B. Good Cause Exists to Expunge the Confidential Documents

As detailed above, the confidential documents include financial data, design documents, and business information that relate to the core of Serendia's and its licensee, Benev's, business. Further, Serendia already demonstrated in its Motions to Seal (Papers 13 and 29), and the Board agreed that good cause existed to seal this confidential information, at least with respect to Paper 13. *See* Paper 20 (Order Granting Patent Owner's Motion for Protective Order and Motion to Seal), 4-5. The Board did not rule on Serendia's Motion to Seal (Paper 29) prior to termination, but good cause likewise existed to seal Serendia's confidential information described therein.

Accordingly, the confidential documents contain "trade secret or other confidential research, development, or commercial information" under 37 C.F.R. § 42.54(a) and should be subject to expungement under 37 C.F.R. § 42.56. There has been no change in the sensitivity or confidentiality of the information contained in the confidential documents since they were filed. Serendia has therefore met its burden of showing that "any information sought to be expunged constitutes confidential information." *RPX Corp*., IPR2014-00171, Paper 62 at 3.

Serendia has a strong interest in preserving the confidentiality of the confidential documents, which "outweighs the public's interest in maintaining a complete and understandable file history." *RPX Corp.*, IPR2014-00171, Paper 62

at 3. The confidential documents, and the information contained therein, could be improperly used by competitors to gain unfair business and competitive advantages in the marketplace, and the confidential documents include the type of information that businesses typically keep confidential to avoid competitive harm. Moreover, the record in this proceeding contains public, redacted versions of the Patent Owner Preliminary Response and Patent Owner Response. Thus, the public will continue to have access to Serendia's arguments and the relied upon, non-confidential disclosures in the confidential documents.

Additionally, the Board did not rely on any of the confidential disclosures in the confidential documents in rendering its Decision on Institution or its Decision on Termination Due to Settlement. *See generally* Paper 18; Paper 52. No final written decision was issued in this case. The confidential documents submitted thus have no effect on the determinations made in the institution decision, nor are they necessary to provide any understanding of the final result. Therefore, there is no public interest in seeing these confidential documents. Accordingly, the public's access to the redacted versions of these exhibits fulfills the public's interest in maintaining a complete and understandable record, and the expungement of the sealed versions of the confidential documents from the record will not diminish the public's understanding of the Board's Decisions.

C. Request for Expungement of Documents from Joined Proceeding IPR2024-00844

Concurrent with the expungement of the confidential documents from IPR2024-00384, Patent Owner also respectfully requests that the Board expunge Paper 12 and Exhibits 2041, 2054, 2062, 2071, 2084, 2135, and 2147 from the record in IPR2024-00844, which was joined to the instant proceeding. Because the Board's Decision Instituting *Inter Partes* Review and Granting Motion for Joinder in IPR2024-00844 (Paper 14) terminated that proceeding and ordered that future filings were only to be made in the instant proceeding, IPR2024-00384 (*see* IPR2024-00844, Paper 14 at 15), Patent Owner makes this request in IPR2024-00384; however, if the Board requests that Patent Owner file a Motion to Expunge in IPR2024-00844, Patent Owner will do so.

III. Conclusion

For the reasons set forth above, Serendia respectfully requests that the Board expunge the confidential documents.

Respectfully submitted,

Dated: August 15, 2025

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 15th day of August, 2025, a true and correct copy of the foregoing **Patent Owner's Motion to Expunge Confidential Information from the Record** was served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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