Filed on behalf of: Serendia, LLC

Entered: March 20, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ILOODA CO., LTD and JEISYS MEDICAL INC.,
Petitioner,

v.

SERENDIA, LLC,
Patent Owner.

Case IPR2024-00386
Patent 9,480,836

PATENT OWNER'S UNOPPOSED MOTION FOR ENTRY OF PROTECTIVE ORDER

Exhibit List

Ex.	Description
2001	[Proposed] Stipulated Protective Order
2002	Markup Comparison Showing Differences Between the [Proposed] Stipulated Protective Order and the Default Protective Order

I. Introduction

Pursuant to 37 CFR § 42.54 and the Board's March 15, 2024 email authorizing this Motion, Patent Owner moves for entry of the Proposed Stipulated Protective Order filed concurrently as Exhibit 2001. A redline comparison of the Proposed Order and the Default Protective Order is also filed concurrently as Exhibit 2002. *See* U.S. Pat. & Trademark Off., Patent Trial and Appeal Board Consolidated Trial Practice Guide 91 (Nov. 2019) ("If the parties choose to propose a protective order deviating from the default protective order, they must submit the proposed protective order jointly along with a marked-up comparison of the proposed and default protective orders showing the differences between the two and explain why good cause exists to deviate from the default protective order."). As shown below, good cause supports this motion.

II. Good Cause Supports Entry of the Protective Order

Good cause supports entry of the Proposed Stipulated Protective Order. Patent Owner intends to rely on, in its Preliminary Response, information that Patent Owner and Petitioners have designated as confidential business information in a related proceeding at the United States International Trade Commission (ITC). The Parties are currently engaged in discussions about the production of Petitioner's existing information in this IPR proceeding. As a threshold matter, however, a 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.

There is good cause to deviate from the Default Protective Order. As shown in Exhibit 2002, the proposed deviations from the 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) clarifies that the obligations of the protective order survive a party's termination; and 5) clerical edits to clean up issues relating to the above. These changes are intended to match the already-entered protective order between the Parties in the ITC proceeding.

A. Good causes exists to modify the individuals allowed to access the information.

In the related ITC proceeding, in-house counsel is not permitted to view confidential information of the other parties. *Cf.* Ex. 2002 ¶ 2. Good 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. The Parties, which are competitors represented by qualified outside counsel, do not significantly benefit in this proceeding from allowing in-house counsel access to such information.

The Parties also propose removing "Parties" from the list of individuals with access to confidential information. To the extent that this provision intends to include patent owners who are natural persons, it is not relevant to this proceeding; and to the extent it extends to the non-natural Parties to this proceeding, it is unduly vague as to which natural persons within or representing the Parties should have access. These changes do not impede the public's interest in maintaining a complete and understandable file history.

B. Good cause exists to change the burden of deviating from the proposed protective order.

The Parties seek to change the party that bears the burden for allowing access to confidential information in a manner that deviates from the protective order. Ex. 2002 ¶ 3. The Parties agree that the burden should be on the party seeking disclosure to a person not covered by paragraph 2 of the protective order. *Id.* This burden allocation reflects the meaningful prior restrictions on the parties to the list in paragraph 2 and furthers the goal of confidentiality without affecting the public's interest in maintaining a complete and understandable file history.

C. Good cause exists for the other proposed deviations to the Default Protective Order.

The Parties further seek to make explicit their understanding that the protective order in this IPR proceeding does not alter any obligations in other proceedings. Ex. 2002 ¶ 6. The Parties also further seek to expressly state that

persons signing the Standard Acknowledgement form are allowed to use information obtained by appropriate means outside of this IPR proceeding in the other proceeding. Ex. 2002 at 009. The existence of multiple proceedings with multiple protective orders covering the same information is good cause for these provisions, which do not impair the public's interest in maintaining a complete and understandable file history.

Finally, the Parties seek to explicitly state that the obligations of the protective order remain binding on all parties even if the proceeding is terminated as to a party. For example, if the case were terminated as to either of the two Petitioners in this proceeding, the obligations of the protective order should continue to apply to the confidential information produced by that terminated Petitioner even if the proceeding continues as to the other Petitioner. This ensures confidence that a settling Party's confidential information will remain protected by the obligations of the Protective Order after a Party settles, and it does not impact the public's interest in maintaining a complete and understandable file history.

III. Certification of Conference

Patent Owner certifies that it has conferred with Petitioners and that Petitioners have stated they agree to the Proposed Stipulated Protective Order (Ex. 2001).

IV. Conclusion

Patent Owner respectfully requests that the Board enter the Proposed Stipulated Protective Order (Ex. 2001).

Respectfully submitted,

Dated: March 20, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 20th day of March, 2024, a true and correct copy of the foregoing **Patent Owner's Unopposed Motion for Entry of a Protective Order and Exhibits 2001-2002** were served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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