

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JEISYS MEDICAL INC.,
Petitioner,

v.

SERENDIA, LLC,
Patent Owner.

IPR2024-00386
Patent 9,480,836 B2

Before CARL M. DEFRANCO, MICHAEL L. WOODS, and
SCOTT RAEVSKY, *Administrative Patent Judges*.

WOODS, *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

I. FACTUAL BACKGROUND

On March 20, 2024, Patent Owner filed an Unopposed Motion for Entry of Protective Order. Paper 9 (“Prot. Ord. Mot.” or “Motion for Protective Order”).¹ Concurrent with the Motion for Protective Order, Patent Owner filed a Proposed Stipulated Protective Order (Ex. 2001, “Proposed Order”) and a redline comparison of the Proposed Order with the Board’s default protective order (Ex. 2002).

On April 25, 2024, Patent Owner filed a Motion to Seal. Paper 12 (“Mot. to Seal” or “Motion to Seal”). In the Motion to Seal, Patent Owner seeks to seal Patent Owner’s Preliminary Response and Exhibits 2003, 2004, 2005, 2006, 2015, 2030, 2031, 2052, 2054, 2061, 2062, 2065, 2071, 2084, 2089, 2090, 2102, and 2139 (collectively, the “Confidential Exhibits”).
Mot. to Seal 1.

II. LEGAL BACKGROUND

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). When assessing whether the standard has been met, we may consider

¹ The Board terminated Ilooda Co., Ltd, as a petitioner in this proceeding. *See* Paper 14. Accordingly, our reference to “Petitioner” is to Jeisys Medical, Inc., only. *See id.*

whether the information at issue is truly confidential, whether harm would result upon public disclosure, and whether the interest in maintaining confidentiality as to the information outweighs the strong public interest in an open record. *Id.* at 3–4.

III. MOTION FOR PROTECTIVE ORDER

Patent Owner submits that good cause exists for deviating from the Board’s default protective order. *See* Prot. Ord. Mot. 2. Patent Owner references a related 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.” *See id.* at 1–2. Patent Owner 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) 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.

Id. at 2 (indentations added for clarity). Patent Owner submits that these “changes are intended to match the already-entered protective order between the Parties in the ITC proceeding.” *Id.*

Patent Owner further certifies that Petitioner has agreed to the Proposed Order. Prot. Ord. Mot. 4 (citing Ex. 2001).

Good cause exists to deviate from the Board's default protective order and grant Patent Owner's Motion for Protective Order.

The proposed changes relate primarily to limiting access to in-house counsel and the "Parties." *See generally* Exs. 2001, 2002. Patent Owner acknowledges that "[i]n the related ITC proceeding, in-house counsel is not permitted to view confidential information of the other parties." Prot. Ord. Mot. 2. Patent Owner submits that "[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." *Id.* Patent Owner further submits that the parties "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.*

We are persuaded that good cause exists and grant the Motion for Protective Order (Paper 9) and enter the Proposed Order (Exhibit 2001).

IV. MOTION TO SEAL

Patent Owner moves to seal the Preliminary Response and the Confidential Exhibits. Mot. to Seal 1.

Patent Owner submits that the information sought to be sealed includes,

confidential technical and financial information, including financial data, design documents, and business information. These materials relate to the core of Patent Owner's business. Public disclosure of this information would significantly harm Patent Owner's competitive position because it would allow competitors to access sensitive technical information.

Mot. to Seal 1. Patent Owner further submits that the information sought 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 technical information relating to the design and functionality of Patent Owner's products (e.g., design and technical specification files).

Id. at 2.

Good cause exists to grant the Motion to Seal.

V. ORDER

Accordingly, it is

ORDERED that Patent Owner'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 Patent Owner's Motion to Seal (Paper 12) is granted.

IPR2024-00386
Patent 9,480,836 B2

For PETITIONER:

Scott Weidenfeller
Anupam Sharma
Peter Chen
Wonseon Choi
COVINGTON & BURLING LLP
sweidenfeller@cov.com
asharma@cov.com pchen@cov.com
wchoi@steptoe.com

Wesley Mueller
Leonard Hua
Paul Filbin
Brent Chatham
LEYDIG, VOIT & MAYER, LTD.
wmueller@leydig.com
lhua@leydig.com
pfilbin@leydig.com
bchatham@leydig.com

For PATENT OWNER:

Charles H. Sanders
Steven W. Peters
LATHAM & WATKINS LLP
charles.sanders@lw.com
steven.peters@lw.com