

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
HP INC., DELL INC., DELL TECHNOLOGIES INC.,
ASUSTEK COMPUTER INC., ASUS GLOBAL PTE. LTD.,
Petitioner,

v.

LITL LLC,
Patent Owner.

IPR2024-00456
Patent US 8,612,888 B2

Before GARTH D. BAER, BRIAN D. RANGE, and DAVID COTTA,
Administrative Patent Judges.

BAER, *Administrative Patent Judge.*

ORDER
Granting Petitioner's Unopposed Motion to Expunge
37 C.F.R. §§ 42.56

I. Introduction

On October 23, 2024, Petitioner filed a Motion to Expunge sealed Papers 11, 15, 18, and 22, and sealed Exhibits 2018–2020, 2025, 2027, 2028, 2032–2034, and 2038–2040 in this proceeding. Paper 32, 1. Petitioner’s motion is unopposed. *Id.*

“[A]fter final judgment in a trial, a party may file a motion to expunge confidential information from the record.” *See* 37 C.F.R. § 42.56.

Petitioner filed a Motion to Seal Petitioner’s Preliminary Response (Paper 11), and the Exhibits listed above. Paper 12. Petitioner also filed a Motion to seal Petitioner’s Preliminary Reply (Paper 15). Paper 14. We granted these Motions. Paper 17. In addition, Petitioner filed a Motion to Seal Patent Owner’s Sur-Reply (Paper 18). Paper 19. We also granted this Motion. Paper 21. Redacted public versions of these Papers are present in the record. *See* Papers 13, 16, 20.

In addition, on July 31, 2024, we issued a Decision instituting trial, under seal (Paper 22). A redacted public version was filed (Paper 25).

No redacted versions of the Exhibits under seal were filed.

II. BACKGROUND

On January 30, 2024, Petitioner filed a Petition challenging claims 1–9, 15–22, and 24–27 of U.S. Patent No. 8,612,888 B2 (Ex. 1001, “the ’888 patent”). Paper 7, 1.

On September 25, 2024, Patent Owner filed a Request for Judgement. Paper 28. Along with the Request, Patent Owner filed a copy of the Disclaimer of claims 1–9, 15–22, and 24–27 of the ’888 patent it filed with the Office. Exhibit 2042.

On October 10, 2024, we filed a Judgment, Granting Request for Adverse Judgment, with respect to claims 1–9, 15–22, and 24–27, which are all of the claims challenged in the Petition.

III. DISCUSSION

A strong public policy exists for making open to the public all information filed in this administrative proceeding. Only “confidential information” is protected from disclosure. 35 U.S.C. § 316(a)(7) (“The Director shall prescribe regulations . . . providing for protective orders governing the exchange and submission of confidential information.”). The Consolidated Trial Practice Guide (“TPG”) states:

Confidential information that is subject to a protective order ordinarily would become public 45 days after denial of a petition to institute a trial or 45 days after final judgment in a trial. There 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. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public. 37 C.F.R. § 42.56. The rule balances the needs of the parties to submit confidential information with the public interest in maintaining a complete and understandable file history for public notice purposes. The rule encourages parties to redact sensitive information, where possible, rather than seeking to seal entire documents.

Consolidated Trial Practice Guide at 21–22 (Nov. 2019), *available at* <http://www.uspto.gov/TrialPracticeGuideConsolidated>. “The rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” *Id.* at 19.

Petitioner contends these documents “were filed under seal because they contain Petitioners’ confidential information,” and that the “highly confidential information in each document generally relates to the design and operation of Petitioners’ accused technology and/or to ‘licensing, including precise license terms and rates.’” Mot. 3 (citing Paper 12, 1–2; Paper 19, 1–2).

Because we agree with Petitioner’s statements as to the documents filed under seal, and because we did not rely upon the confidential information in these documents in granting Judgment, we are persuaded that the information in the named documents should remain confidential.

ORDER

For these reasons, it is hereby:

ORDERED that Petitioner’s Motion to Expunge Papers 11, 15, 18, and 22, and sealed Exhibits 2018–2020, 2025, 2027, 2028, 2032–2034, and 2038–2040 is *granted*.

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