

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CASPER SLEEP INC.,
Petitioner,

v.

WERNER MEDIA PARTNERS, LLC,
Patent Owner.

IPR2024-00474
Patent 10,842,301 B2

Before BARRY L. GROSSMAN, JASON W. MELVIN, and
RYAN H. FLAX, *Administrative Patent Judges*.

FLAX, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Unopposed Motion to File Documents
Under Seal and for Protective Order
U.S.C. § 316; 37 C.F.R. §§ 42.14, 42.54

I. INTRODUCTION

Werner Media Partners LLC (“Patent Owner”) is the owner of U.S. Patent 10,842,301 B2 (Ex. 1001, “the ’301 patent”). Paper 5, 1. On January 18, 2024, Casper Sleep Inc. (“Petitioner”) filed a Petition for *inter partes* review challenging the patentability of claims 1 and 2 of the ’301 patent (all claims). Paper 2, 1 (“Pet.”). On April 26, 2024, trial was instituted. Paper 7.

Patent Owner moves the Board to seal certain evidence as including confidential information and to enter the parties’ proposed protective order. Paper 22 (“Motion” or “Mot.”); *see id.* Exhibit A (marked-up proposed protective order); *see also* Exs. 2022–2026 (exhibits filed under seal). For the reasons below, the Motion is *granted*.

II. PATENT OWNER’S MOTION

Under 37 C.F.R. § 42.14, the default rule is that all papers filed in such proceedings are available to the public. Only “confidential information” is subject to protection against public disclosure. 35 U.S.C. § 326(a)(7); 37 C.F.R. § 42.55. The Board also observes a strong policy in favor of making all information filed in *inter partes* review proceedings open to the public. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27, 3–4 (PTAB Jan. 19, 2018) (informative). “Redactions to documents filed in [a] proceeding should be limited to the minimum amount necessary to protect confidential information, and the thrust of the underlying argument or evidence must be clearly discernible from the redacted versions.” CTPG 91. The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c).

The standard for granting a party's requested relief is "good cause." *Id.* § 42.54(a).

The Board may, for good cause, issue an order to protect a party or person from disclosing confidential information. 37 C.F.R. § 42.54(a). A protective order is not entered by default, but must be proposed by one or more parties and must be approved and entered by the Board. PTAB Consolidated Trial Practice Guide 19–20, 107 (Nov. 2019) ("CTPG").¹ The CTPG sets forth specific guidelines on proposing a protective order and provides a Default Protective Order. *See id.* at 19–20, 107–122.

Patent Owner certifies that the Motion is unopposed and any modifications to the proposed protective order have been agreed upon by the parties. Mot. 1. Patent Owner specifically identifies Exhibits 2022–2024 as those that should be sealed and protected under the proposed protective order; however, we note that, according to the record of this proceeding, Exhibits 2025 and 2026 were also filed as sealed for the parties' and Board's eyes only. Patent Owner asserts that "the documents detail proprietary information as to Patent Owner's manufacturing processes, and internal product specifications." Mot. 2.

The Motion identifies modifications to certain portions of the Board's default protective order, which are also reflected in the mark-ups to the proposed protective order included as Exhibit A to the Motion. Mot. 2–3. We note, however, that neither the Motion nor the marked-up version of the proposed protective order indicates that part (k) of the Board's default protective order has been deleted, which appears to be the case. Patent

¹ Available at www.uspto.gov/TrialPracticeGuideConsolidated.

Owner asserts that “[g]ood cause exhibits to deviate from the default protective order as Patent Owner is providing sensitive information about its manufacturing process, and Petitioner will be providing sensitive information regarding its sales numbers based on the conferral of the parties.” *Id.* at 3.

Even with the above-identified defects in the Motion, we find Patent Owner has shown good cause to seal the above-identified exhibits and enter the proposed protective order in this proceeding, in large part, because the parties have conferred and agree this is necessary. 37 C.F.R. § 42.54(a).

Patent Owner is instructed to immediately file a clean, final version of the proposed protective order as an exhibit in this proceeding, which the Board will consider entered and enforceable. The exhibits filed under seal will remain so.

ORDER

Accordingly, it is hereby:

ORDERED that Patent Owner’s request to File Confidential Documents Under Seal is *granted*, and Exhibits 2022–2026 will be maintained as sealed;

FURTHER ORDERED that Patent Owner’s request for entry of a protective order is *granted* and the proposed protective order (Exhibit A to the Motion) will be entered in this proceeding once it is filed by Patent Owner as an exhibit in clean and final form; and

FURTHER ORDERED that Patent Owner is instructed to file a clean, final version of the proposed protective order as an exhibit in this proceeding.

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