

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 and RYAN H. FLAX,
Administrative Patent Judges.

FLAX, *Administrative Patent Judge.*

ORDER

Authorizing the Parties to File a Joint Motion to Seal with a Redacted Public
Version of Final Decision, a Joint Motion to Expunge, and Proposed Public
Versions of Sealed Exhibits of Record

37 C.F.R. §§ 42.5, 42.14

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.”). We instituted trial in this proceeding on April 26, 2024. Paper 7.

On April 11, 2025, the Board entered a Final Written Decision (“Final Decision,” Paper 56) in this proceeding, but restricted its access to “Board and Parties Only” because the Final Decision cited and discussed exhibits that were identified by a party as including confidential information and are subject to the Protective Order entered in this proceeding (Ex. 2027). The Final Decision determined that claims 1 and 2 of the ’301 patent would have been obvious over the asserted prior art and, thus, are unpatentable, under each ground asserted by Petitioner. A public version of the Final Decision will be made available in due course.

As explained in our Consolidated Trial Practice Guide,¹ 84 Fed. Reg. 64,280 at 21–22 (Nov. 21, 2019):

Confidential information that is subject to a protective order ordinarily [will] 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

¹ Available at www.uspto.gov/TrialPracticeGuideConsolidated.

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.

The parties shall meet and confer and are authorized to file, on or before April 25, 2025, a joint motion to seal the Final Decision, which must include as an exhibit a proposed redacted public version of the Final Decision that will be open to the public. If any disagreement exists, the parties may schedule a conference call with the Board prior to that due date.

Any proposed redactions should consider the strong public policy for making all information filed in this proceeding open to the public, especially when that information is contained in a final written decision. For example, the parties should not propose redacting any information that is otherwise publicly available or disclosed in other public proceedings. The Board will review the redactions and may schedule a conference call to discuss redactions it deems unnecessary or excessive. Otherwise, the redacted copy of the Final Decision submitted by the parties will be entered as the publicly accessible version of the Final Decision.

If the parties identify that no redactions to the Final Decision are required or do not submit a proposed redacted version of the Final Decision, the entered version will be made public no later than May 26, 2025.

Further, the parties are authorized to file a Joint Motion to Expunge concerning exhibits of record containing confidential information that are not relied upon in the Final Decision.

As we have expressly identified and explained in prior Orders (*see* Paper 34) in this proceeding:

the documents certified to contain confidential information (by both parties) have been filed only in their original form, now sealed, and no proposed public versions with limited redactions of the confidential information have been submitted.

We emphasize that, as explained above, should the Board rely on these documents in a final decision, there is a likelihood that they will be made public in their entirety, as the parties have neither proposed public redacted versions of the documents nor identified with particularly the specific confidential portions of the documents.

We again warn the parties that any exhibit asserted to include confidential information that was cited in the Final Decision will be unsealed and made public in the form on record in this proceeding. If either party wishes for any part of such evidence to remain non-public, a carefully and limited redacted version of the respective exhibit must be submitted as the public version. The parties are authorized to do so immediately.

ORDER

In accordance with the above, it is hereby:

ORDERED that the parties are authorized to file, on or before April 25, 2025, a joint motion to seal the Final Decision, which must include as an exhibit a proposed redacted public version of the Final Decision that will be open to the public;

FURTHER ORDERED that the parties are authorized to file a joint motion to expunge as set forth above; and

FURTHER ORDERED that the parties may submit limited redacted versions of sealed exhibits of record as proposed public versions thereof.

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Patent 10,842,301 B2

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