

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 in-Part Joint Motion to Expunge
37 C.F.R. § 42.56

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. Casper Sleep Inc. (“Petitioner”) filed a Petition for *inter partes* review challenging claims 1 and 2 of the ’301 patent. Paper 2 (“Pet.”). We entered a Final Written Decision on April 24, 2025, concluding that Petitioner met its burden to prove that the challenged claims are unpatentable over the asserted prior art. Paper 60 (“Decision”).

Now, the Parties jointly move to expunge certain evidence from the record. Paper 61 (“Motion”). Specifically, the Parties seek to expunge Exhibit 1082 and Paper 31 from the record. *Id.* at 1. The Motion includes a proposed redacted version of Paper 31 as Attachment A. *See id.*

“After . . . final judgment in a trial, a party may file a motion to expunge confidential information from the record.” 37 C.F.R. § 42.56. The Board’s Consolidated Trial Practice Guide (“CTPG”)¹ explains that “[t]he 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,” and that “[t]here 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.” CTPG at 22.

The Parties assert that Exhibit 1082 contains Petitioner’s confidential business information in the form of sales data such that “there is no practical way to redact portions of Exhibit 1082 without revealing Petitioner’s confidential trade secrets.” Mot. 2. The Parties contend that Petitioner’s

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

business would be harmed if its competitors were allowed to review the exhibit. *Id.* Exhibit 1082 was sealed by the Board upon Petitioner’s earlier motion (Paper 25). *See* Paper 27. The Parties represent that “[t]he Written Decision did not cite or substantively discuss the contents of Exhibit 1082.” Mot. 2.

The Parties request that the Board expunge Paper 31 (Patent Owner’s Sur-reply) “for the same reasons that Exhibit 1082 should be expunged” because Section V.E. of Paper 31 “substantively discusses the contents of Exhibit 1082.” Mot. 3. The Parties assert that “a suitably redacted replacement Paper 31” is attached to the Motion as Attachment A. *Id.* Paper 31 was sealed by the Board upon Petitioner’s earlier motion (Paper 32). *See* Paper 34.

Because Exhibit 1082 and Section V.E. of Paper 31 were not referenced in the Final Written Decision in this proceeding, we find that the public’s interest in having access to that information does not outweigh Petitioner’s need to protect its confidential information. We therefore find good cause for Exhibit 1082 to be expunged and Paper 31 to remain under seal. Because we will maintain the original Sur-reply under seal and allow entry of a redacted, public version, we grant the motion in-part.

In consideration of the foregoing, it is hereby:

ORDERED that the Parties’ Joint Motion to Expunge is *granted*;

FURTHER ORDERED that Exhibit 1082 will be expunged;

FURTHER ORDERED that Paper 31 will remain under seal; and

FURTHER ORDERED that Petitioner publicly file the redacted version of Paper 31 (Attachment A to the Motion) within 10 business days.

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