

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROCHIP TECHNOLOGY INC.,
Petitioner,

v.

APTIV TECHNOLOGIES AG,
Patent Owner.

IPR2024-00495
Patent 9,619,420 B2

Before JEAN R. HOMERE, TERRENCE W. McMILLIN, and KEVIN C.
TROCK, *Administrative Patent Judges*.

McMILLIN, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding

On the same day that the Petition (Paper 2 (“Pet.”)) was filed, Petitioner filed a Motion to File Confidential Document Under Seal. Paper 3 (“Motion”). In the Motion, Petitioner requests sealing the entirety of Exhibit 1072. Motion 1. The Motion states that Exhibit 1072 “contains highly detailed, sensitive, confidential, and non-public information concerning the design, development, functionality, and operation of various Microchip USB hub products (‘Microchip Accused Products’).” *Id.* More particularly, the Motion states the following:

Petitioner guards such information closely and has not made, and does not intend to make, this information publicly available. Such information could be improperly used by competitors to gain unfair business and competitive advantage with customers in the marketplace, including using details of Petitioner’s process for developing and manufacturing competitive commercial products.

Id. at 3.

Exhibit 1072 is titled “[Patent Owner]’s Supplemental Infringement Contentions” and comprises 597 pages. Petitioner cites to Exhibit 1072 to show how Patent Owner interprets particular claim terms in the district court litigation between the parties. *See* Pet. 24 (citing pages 118, 125, 186, 339, and 408–409 of Ex. 1072), 25 (citing pages 118, 125, and 186 of Ex. 1072), 26 (citing pages 118 and 186 of Ex. 1072), 61 (citing page 121 of Ex. 1072), 65 n.19 (citing page 125 of Ex. 1072), 67 (citing page 126 of Ex. 1072), 71 (citing page 129 of Ex. 1072). In total, Petitioner cites to 9 pages of Exhibit 1072 in the Petition.¹ *Id.* Exhibit 1072 is not cited by the Patent Owner in

¹ We note that Petitioner did not file the Petition under seal or request that any portion of the Petition be maintained as confidential including the discussion of the material from Exhibit 1072.

the Preliminary Response. *See generally* Paper 10. Due to the limited purpose for which Exhibit 1072 is cited and the limited number of pages of Exhibit 1072 that are cited, the Board does not see the need to maintain the entirety of Exhibit 1072, and all the highly detailed, sensitive, and confidential information it contains, in the record. Exhibit 1072 contains a substantial amount of confidential information that is not relevant to any issue in this proceeding.

Under similar circumstances in PGR2024-00011 that involves a related patent and the same Petitioner and Patent Owner, the Board entered an Order to Show Cause (PGR2024-00011, Paper 14) why Exhibit 1072 should be maintained in the record. In its Response (PGR2024-00011, Paper 16), Petitioner stated, “[t]o mitigate the Board’s concern regarding confidentiality, Petitioner proposes to submit (and hereby seeks Board authorization to submit) a replacement version of EX1072 containing only the cited excerpts which would moot the motion to seal” (*id.* at 3). Upon authorization by the Board (PGR2024-00011, Paper 17), Petitioner filed a replacement version of Exhibit 1072 containing only the portions relevant to the Petition. The Board believes that the same procedure should be followed in this proceeding.

Accordingly, it is hereby:

ORDERED that Petitioner is authorized to file a replacement version of Exhibit 1072 containing only the cited excerpts;

FURTHER ORDERED that, in each of the above-captioned proceedings, the Motion to File Confidential Document Under Seal (Paper 3) is dismissed; and

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FURTHER ORDERED that, Petitioner is authorized to file, if necessary, a motion to maintain the confidentiality of the replacement version of Exhibit 1072, in whole or in part.

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