

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BRUKER SPATIAL BIOLOGY, INC.,
Petitioner,

v.

PRESIDENT AND FELLOWS OF HARVARD COLLEGE and 10X
GENOMICS, INC.,
Patent Owner

Case IPR2024-00526
Patent 11,542,554

PETITIONER'S MOTION TO SEAL EX1083

I. INTRODUCTION

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner respectfully submits this Motion to Seal EX1083, which is the transcript of Ms. Julie Davis and that contains financial information for the exclusive licensee, 10x Genomics, Inc. (“10x”). Petitioner brings this motion because Patent Owner has designated EX1083 as confidential pursuant to the Default Protective Order.

The parties have met and conferred regarding the sealing of financial information of the type reflected in EX1083 and the entry of the Default Protective Order, as required by 37 C.F.R. § 42.54(a). Petitioner does not oppose Patent Owner’s request to seal financial information of the type reflected in EX1083 and expects that Patent Owner will submit papers further showing good cause for sealing this information along with a public redacted version of EX1083.

II. GOVERNING RULES AND PTAB GUIDANCE

“A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.” 37 C.F.R. § 42.14. The Consolidated Trial Practice Guide (“TPG”) explains that “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.” TPG at 19. As the TPG

states, the “rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54).

In determining whether to grant a Motion to Seal, the Board must find “good cause.” 37 C.F.R. § 42.54(a). Good cause for sealing material can be established by demonstrating that the balance of the following considerations favors sealing the material: whether (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 4 (P.T.A.B. January 19, 2018) (informative).

III. PETITIONER EXPECTS THAT PATENT OWNER SHALL SHOW GOOD CAUSE FOR SEALING EX1083

To the extent not already addressed by Patent Owner’s previous motion to seal, *see* Paper 22, Petitioner expects that Patent Owner will submit papers showing good cause for sealing portions of EX1083 along with a redacted public version of EX1083. In the meantime, because Patent Owner has designated EX1083 as confidential pursuant to the default protective order, Patent Owner requests that

EX1083 be sealed and further states that it does not oppose Patent Owner's request to seal certain financial information of the type present in EX1083.

IV. CONCLUSION

Because Patent Owner has designated EX1083 as confidential pursuant to the default protective order, Patent Owner requests that EX1083 be sealed.

Dated: March 18, 2025

Respectfully submitted,

/Derek C. Walter/

Derek C. Walter (Reg. No. 74,656)

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2025, copies of the foregoing
PETITIONER'S MOTION TO SEAL 1083 was served via electronic mail, upon
the following:

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Dated: March 18, 2025

/Derek C. Walter/

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