

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

ASUS TECHNOLOGY LICENSING INC.,
Patent Owner.

Case No. IPR2024-00614
U.S. Patent No. 10,187,878

PATENT OWNER'S MOTION TO SEAL PURSUANT TO 36 C.F.R. § 42.54

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I. INTRODUCTION

Patent Owner's Exhibit 2002 is a transcript of deposition of Dr. Onggosanusi, a co-inventor of asserted prior art in this Petition and a current employee of Petitioner who was deposed in a related district court litigation. Petitioner designated that transcript "Confidential" pursuant to the protective order in that litigation. Patent Owner's Preliminary Response and Exhibit 2001 also contain quotations from and discussions of the designated material in Exhibit 2002.

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner has conferred with Petitioner regarding entry of a protective order in this proceeding and the parties have agreed on a proposed protective order, which is substantially the same as the Board's Default Protective Order except for the addition of an "Attorneys' Eyes Only" designation for highly confidential information describing trade secrets. Patent Owner moves to seal Patent Owner's Preliminary Response, Exhibit 2001, and Exhibit 2002, and submits that good cause exists for the Board to grant the motion and enter the parties' proposed protective order.

II. GOOD CAUSE

The Board may grant a motion to seal "for good cause." 37 C.F.R. § 42.54; *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 34 at 3 (PTAB Mar. 14, 2013). To establish "good cause," the moving party must demonstrate the following factors:

(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 (PTAB Jan. 19, 2018) (informative) (citations omitted); *see also Corning Optical Communications RF, LLC, v. PPC Broadband, Inc.*, IPR2014-00440, Paper 47 at 3 (PTAB Apr. 14, 2015).

Here, Exhibit 2002 is a transcript of deposition of Dr. Eko Onggosanusi, Senior Director for Standards at Samsung Research America. That deposition was taken in a district court litigation with a protective order permitting the parties to designate confidential business information as “Confidential” and protect it from public disclosure. Samsung’s counsel designated Dr. Onggosanusi’s deposition transcript as “Confidential” in that proceeding due to Dr. Onggosanusi’s discussion of Samsung’s confidential business information in response to questions asked during the deposition. Patent Owner’s Preliminary Response and Exhibit 2001 also include excerpts from Exhibit 2002 and quote/discuss the substance of the witness’ testimony that was designated confidential.

Patent Owner has a genuine need to rely on the confidential material in this proceeding. Dr. Onggosanusi is a co-inventor on two of the alleged prior art references relied upon by Petitioner as grounds for invalidity in this proceeding and his testimony is relevant to Patent Owner's arguments in response to the Petition, for the reasons set forth in the Patent Owner Preliminary Response.

In order to minimize the burden on the public's interest in an open record, the parties will confer regarding the scope of redactions necessary to the Patent Owner Preliminary Response and the exhibits proposed for sealing and will file redacted, non-confidential versions of those documents within five business days, with redactions tailored to protect only the material necessary to avoid public disclosure of Petitioner's confidential information.

III. PROPOSED PROTECTIVE ORDER

Patent Owner has attached, as Exhibits 2063 and 2064 to this motion, a clean copy of the parties' proposed protective order as well as a marked up copy showing differences between the parties' proposed protective order and the Board's Default Protective Order. The only substantive difference between the proposed protective order and the Board's Default Protective Order is that the proposed protective order includes an additional category of confidentiality—"Attorneys' Eyes Only"—that may be used for information describing trade secrets including the confidential details of business relationships. Access to information

designated under that higher classification is limited to the parties, representatives of record, experts, support personnel, and the USPTO.

IV. CERTIFICATION OF CONFERENCE

Patent Owner certifies that pursuant to 37 C.F.R. § 42.54(a), it has conferred with Petitioner, and Petitioner does not oppose this motion.

V. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board grants Patent Owner's motion to seal Patent Owner's Preliminary Response, Exhibit 2001, and Exhibit 2002.

Dated: June 27, 2024

Respectfully submitted,

By: /Anthony Q. Rowles/
H. Annita Zhong. (Reg. No. 66,530)
Anthony Q. Rowles (Reg. No. 68,673)
Jason Sheasby (*pro hac vice* to be requested)
IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel: (310) 277-1010
Fax: (310) 203-7199

CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. section 42.6, that on June 27, 2024, a complete copy of the foregoing **PATENT OWNER'S MOTION TO SEAL PURSUANT TO 36 C.F.R. § 42.54 and EXHIBITS 2063, 2064** were served by electronic mail, as agreed to by the parties, upon the following:

GREENBERG TRAURIG, LLP

Trenton Ward (Reg. No. 59,157)
Trenton.Ward@gtlaw.com

Heath J. Briggs (Reg. No. 54,919)
BriggsH@gtlaw.com

Vimal M. Kapadia (Reg. No. 73,310)
KapadiaV@gtlaw.com

Stephen M. Ullmer (*Pro Hac Vice* to be requested)
UllmerS@gtlaw.com

Samsung-ASUS-IPRs@gtlaw.com

By: /Julia K. Griffin/
Julia K. Griffin