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Paper 23
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEXAS INSTRUMENTS INCORPORATED,
Petitioner,

v.

GREENTHREAD, LLC,
Patent Owner.

IPR2024-00672 (Patent 10,510,842 B2)
IPR2024-00673 (Patent 11,121,222 B2)
IPR2024-00674 (Patent 11,121,222 B2)[1]

Before DONNA M. PRAISS, JON B. TORNQUIST, MONICA S. ULLAGADDI, and JULIA HEANEY, *Administrative Patent Judges*.

PER CURIAM.

ORDER
Granting Patent Owner's and Petitioner's Motions to Seal;
Granting Patent Owner's Motion for
Entry of Protective Order
37 C.F.R. §§ 42.14, 42.54

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[1] This Order addresses similar motions filed in each of the above-captioned proceedings. We issue one Order to be filed in each proceeding. The listing of Judges here does not expand any of the panels. The parties are not permitted to use this style heading in any subsequent papers.

I. INTRODUCTION

On June 17, 2024 and July 1, 2024, Patent Owner filed Motions to Seal in the above-captioned proceedings ("Patent Owner's Motions to Seal"). Papers 8, 12[2]. In each proceeding, Patent Owner also filed a motion for entry of a modified protective order, which includes Patent Owner's proposed Modified Protective Order as Appendix A and a redline comparison between Patent Owner's proposed Modified Protective Order and the Board's default protective order as Appendix B. Paper 8. Patent Owner represents that Petitioner does not oppose entry of the modified protective order or Patent Owner's Motions to Seal. Paper 8, 1; Paper 12, 1.

On July 1, 2024 and July 17, 2024, Petitioner filed Motions to Seal in the above-captioned proceedings ("Petitioner's Motions to Seal"). Papers 10, 15[3].

II. MOTIONS TO SEAL

Patent Owner's Motions to Seal seek to seal portions of Patent Owner's Motion for Additional Discovery (Paper 9), Patent Owner's Preliminary Response (Paper 13), and Exhibits 2011 and 2012. Petitioner's

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[2] For convenience, all citations in this Order are to IPR2024-00672. Patent Owner filed similar motions in IPR2024-00673 (Papers 9 and 13, directed to Papers 10 and 14, and Exhibits 2011 and 2012) and IPR2024-00674 (Papers 9 and 13, directed to Papers 10 and 14, and Exhibits 2011 and 2012).

[3] Petitioner filed similar motions in IPR2024-00673 (Papers 11 and 16, directed to Papers 12 and 17, respectively) and IPR2024-00674 (Papers 11 and 16, directed to Papers 12 and 17, respectively).

Motions to Seal seek to seal portions of Petitioner's Opposition to the Motion for Additional Discovery (Paper 11) and Petitioner's Reply to Patent Owner's Preliminary Response (Paper 16). Patent Owner and Petitioner have already filed redacted public versions of the papers and exhibits they seek to seal. *See* Papers 17–20.

The record of an *inter partes* review shall be made available to the public, except as otherwise ordered, and a document filed with a motion to seal shall be treated as sealed until the motion is decided. 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14. Only "confidential information" may be protected against public disclosure. 35 U.S.C. § 316(a)(7); 37 C.F.R. § 42.54. The Board observes a strong public policy in favor of making information filed in *inter partes* review proceedings open to the public. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3–4 (PTAB Jan. 19, 2018) (informative).

The standard for granting a motion to seal is "good cause." 37 C.F.R. § 42.54(a). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). That includes a sufficient showing that

> (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.

Argentum, Paper 27 at 3–4; *see also Corning Optical Commc'ns RF, LLC v. PPC Broadband, Inc.*, IPR2014-00440, Paper 46 at 2 (PTAB April 6, 2015) (requiring a showing that information has not been "excessively redacted").

Patent Owner explains that Exhibit 2011 is a confidential licensing agreement and Exhibit 2012 is a declaration regarding the agreement. Paper 8, 1. Patent Owner further explains that it is "under confidentiality obligations regarding licensing information referenced in the exhibits." *Id.* at 2. The information the parties seek to seal in Papers 9, 11, 13, and 16 relates to the confidential licensing agreement. Paper 8, 1; Paper 10, 1; Paper 12, 1; Paper 15, 1.

Upon review of Papers 9, 11, 13, 16, and Exhibits 2011 and 2012, we are persuaded that good cause exists to seal the unredacted versions because they contain confidential licensing information.

III. MODIFIED PROTECTIVE ORDER

The Board may, for good cause, issue a protective order "to protect a party or person from disclosing confidential information." 37 C.F.R. § 42.54(a). A protective order is not entered by default but must be proposed by one or more parties and must be approved and entered by the Board. Patent Trial and Appeal Board Consolidated Trial Practice Guide 19–20, 107 (Nov. 2019) ("Trial Practice Guide").[4] The Trial Practice Guide sets forth specific guidelines on proposing a protective order and provides a

[4] Available at http://www.uspto.gov/TrialPracticeGuideConsolidated.

Default Protective Order. *See* Trial Practice Guide 19–20, 107–122. The parties may propose modifications to the Default Protective Order and the Board will generally accept such proposed changes if they are consistent with the integrity and efficient administration of the proceedings. *Id.* at 115. For example, the parties may agree to provide additional tiers or categories of confidential information, such as "Attorneys' Eyes Only," and the Board will presumptively accept agreed-to changes that provide additional categories of confidentiality as long as they are reasonable and adequately define what types of materials are to be included in the additional categories. *Id.* at 115–116.

Patent Owner seeks to modify the Board's Default Protective Order to add an additional category of "Outside Attorneys' Eyes Only" material that is more sensitive than materials in the "Confidential" category and "whose disclosure to in-house counsel or personnel of an opposing party would create a substantial risk of serious harm." Paper 8, App'x. A at 1.

We observe that the Modified Protective Order differs from the Default Protective Order in that it provides an additional category of confidential information. Paper 8, App'x B. After reviewing the proposed modifications to the Default Protective Order, we determine that the changes are consistent with the integrity and efficient administration of the proceedings. Accordingly, we grant Patent Owner's unopposed Protective Order Motion.

Accordingly, it is

ORDERED that Patent Owner's Motions to Seal are *granted* with respect to Exhibits 2011 and 2012, and Papers 9 and 13 in IPR2024-00672, Papers 10 and 14 in IPR2024-00673, and Papers 10 and 14 in IPR2024-00674;

FURTHER ORDERED that Petitioner's Motions to Seal are *granted* with respect to Papers 11 and 16 in IPR2024-00672, Papers 12 and 17 in IPR2024-00673, and Papers 12 and 17 in IPR2024-00674;

FURTHER ORDERED that the Modified Protective Orders (Appendix A of Paper 8 in IPR2024-00672, Appendix A of Paper 9 in IPR2024-00673, and Appendix A of Paper 9 in IPR2024-00674) are entered in the above-captioned proceedings.

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