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Paper 34
Entered: April 21, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUBOTV MEDIA INC. and YANKA INDUSTRIES, INC.,
Petitioner,

v.

DISH TECHNOLOGIES L.L.C.,
Patent Owner.

IPR2024-00917 (Patent 10,757,156 B2)
IPR2024-00918 (Patent 9,407,564 B2)
IPR2024-00919 (Patent 8,868,772 B2)[1]

Before THU A. DANG, KARL D. EASTHOM,
MICHELLE N. WORMMEESTER, and JOHN A. HUDALLA,
Administrative Patent Judges.[2]

HUDALLA, *Administrative Patent Judge*.

ORDER
Granting-in-Part Petitioner's Motions to Seal
Entry of Default Protective Order
37 C.F.R. § 42.54

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[1] This Order addresses the same issue for the above-identified proceedings. Therefore, we exercise our discretion to issue one order to be filed in each proceeding. The parties are not authorized to use this caption style in any subsequent papers.

[2] This is not an expanded panel decision. Judges Dang, Wormmeester, and Hudalla are the panel in IPR2024-00917. Judges Easthom, Dang, and Hudalla are the panel in IPR2024-00918 and IPR2024-00919.

On February 28, 2025, DISH Technologies L.L.C. ("Patent Owner") filed a Motion to Seal (Paper 28, "Mot.")[3] in conjunction with the filing of its Response (*see* Paper 27) in each of these proceedings.[4] With the motions, Patent Owner seeks to seal Exhibits 2041–2043, 2059, 2060, 2065–2067, 2081, 2088, 2089, 2104, 2105, 2107–2110, 2116, 2117, 2130, and 2141. Mot. 2. Patent Owner also seeks entry of the Board's Default Protective Order. *Id.* fuboTV Media Inc. and Yanka Industries, Inc. d/b/a MasterClass (collectively, "Petitioner") did not oppose Patent Owner's motions.

The Board may, for good cause, issue an 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), *available at* http://www.uspto.gov/TrialPracticeGuideConsolidated ("Trial Practice Guide"). The Trial Practice Guide sets forth specific guidelines on proposing a protective order and provides a Default Protective Order. *See* Trial Practice Guide 19–20, 107–22.

As discussed below, we find that Patent Owner has established good cause to seal certain materials. Thus, for the reasons that follow, we grant-

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[3] We cite to papers and exhibits in IPR2024-00917. Similar documents were filed in IPR2024-00918 and IPR2024-00919.

[4] Notably, Patent Owner filed its Responses publicly and without any restriction. *See* Paper 27.

in-part Patent Owner's motions to seal. We also enter the Board's Default Protective Order in these proceedings.

Declaration of Dr. Kevin Jeffay (Ex. 2141)

Patent Owner initially sought to seal the Declaration of Dr. Kevin Jeffay (Ex. 2141), which supports Patent Owner's Response. Mot. 3–4. Patent Owner subsequently emailed the Board and indicated that it "has now confirmed that it does not include any confidential materials and has therefore filed an unredacted public version of that exhibit." Ex. 3002 (email from Patent Owner's counsel dated Mar. 13, 2025). Thus, we dismiss-as-moot Patent Owner's motions to seal as to Dr. Jeffay's declaration. We also have expunged the sealed versions of Dr. Jeffay's declaration.

Emails Involving Move Networks (Exs. 2041–2043, 2059, 2067, 2081, 2088, 2089, 2105, 2108–2110)

Patent Owner initially sought to seal the entirety of various emails between Move Networks, a predecessor entity of Patent Owner's, and various third parties. Mot. 2–4. Patent Owner has now pared down its request insofar as it has provided redacted versions of Exhibits 2041–2043, 2067, 2081, 2088, 2105, and 2108–2110. *See* Ex. 3002. Based on Patent Owner's representations in another case, we discern that Exhibit 2059 is not amenable to redaction and that Exhibit 2089 is confidential in its entirety. *See* IPR2024-00043, Paper 25, 2–3.[5] We have reviewed the redacted materials and find them to be tailored narrowly to protect only confidential

[5] Exhibits 2059 and 2089 in these cases appear to be the same documents as Exhibits 2049 and 2079, respectively, in IPR2024-00043.

information. Thus, we grant Patent Owner's motions to seal as to the redacted information in Exhibits 2041–2043, 2067, 2081, 2088, 2105, and 2108–2110. We also are satisfied by Patent Owner's explanation from IPR2024-00043 with respect to Exhibits 2059 and 2089. *See* IPR2024-00043, Paper 25, 2–3. Thus, we grant Patent Owner's motions to seal as to the entirety of Exhibits 2059 and 2089.

Term Sheets and Non-Disclosure Agreements (Exs. 2050, 2055, 2056, 2130)

Patent Owner seeks to seal two term sheets (Ex. 2050, 2130) and two non-disclosure agreements involving third parties (Exs. 2055, 2056). Mot. 2–4. We find these documents to contain confidential information about non-public business dealings with third parties. Thus, we grant Patent Owner's motions to seal as to the entirety of Exhibits 2050, 2055, 2056, and 2130.

Uncited Exhibits (Exs. 2104, 2107, 2116, 2117)

We could not discern any citations in the Responses or in Dr. Jeffay's declaration to four exhibits: Exhibits 2104, 2107, 2116, 2117. Accordingly, we deny without prejudice Patent Owner's motions to seal these exhibits. Patent Owner is authorized to file renewed motions to seal these exhibits within five business days. If no renewed motions are filed, these exhibits will be expunged.

Entry of Default Protective Order

Patent Owner asks us to enter the Board's Default Protective Order to govern the treatment of confidential information in these proceedings. Mot. 2–3. Given that we find good cause to seal certain materials, we enter the Board's Default Protective Order in these proceedings.

Notice Regarding Marking of Confidential Materials

In its email dated March 13, 2025, Patent Owner noted that Exhibits 2104, 2105, 2107, 2108, 2109, 2110, 2116, and 2117 inadvertently do not include the correct "PROTECTIVE ORDER MATERIAL" marking under the Default Protective Order. Ex. 3002. Patent Owner seeks leave to file corrected versions of these exhibits. *Id.* We see no need to further complicate the record and create additional work for Patent Owner and the Board. Thus, for purposes of these proceedings, we modify paragraph 1 of the Default Protective Order to include "CONFIDENTIAL BUSINESS INFORMATION" as an acceptable alternative marking.

Notice Regarding Expunged Materials in IPR2024-00919

In its email dated March 13, 2025, Patent Owner asked the Board to expunge a large number of duplicate exhibits in the record of IPR2024-00919. Ex. 3002. We have expunged the materials as requested. Patent Owner shall promptly ensure that the record in IPR2024-00919 is complete and correct in the wake of these actions.

ORDER

In consideration of the foregoing, it is hereby

ORDERED that the Board's Default Protective Order as modified above is entered and shall govern the treatment and filing of confidential information in each of these proceedings;

FURTHER ORDERED that Patent Owner's motions to seal the redacted portions of Exhibits 2041–2043, 2067, 2081, 2088, 2105, and 2108–2110, and the entirety of Exhibits 2050, 2055, 2056, 2059, 2089, and 2130, are *granted*;

FURTHER ORDERED that Patent Owner's motions to seal Exhibit 2141 are *dismissed as moot*;

FURTHER ORDERED that Patent Owner's motions to seal Exhibits 2104, 2107, 2116, and 2117 are *denied without prejudice*; and

FURTHER ORDERED that Patent Owner must file renewed motions to seal Exhibits 2104, 2107, 2116, and 2117 within five business days or else these exhibits will be expunged.

IPR2024-00917 (Patent 10,757,156 B2)
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