UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION,

Petitioner

v.

OPTIMUM IMAGING TECHNOLOGIES LLC,

Patent Owner

Case IPR2024-00923

Patent No. 10,873,685

PATENT OWNER'S MOTION TO SEAL AND TO ENTER THE JOINT PROTECTIVE ORDER

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

I. RELIEF REQUESTED 1

II. LEGAL STANDARD 1

III. SEALING OF EXHIBITS 2043 AND 2044 2

A. EXHIBIT 2043 (CANON LITIGATION DOCUMENT) 2
B. EXHIBIT 2044 (EXPERT DECLARATION) 3

IV. SEALING OF THE PATENT OWNER RESPONSE 4

V. ENTRY OF THE JOINT PROTECTIVE ORDER 4

PATENT OWNER'S LIST OF EXHIBITS	
EX. 2001	Excerpt for E.D. Tex from U.S. District Courts–Combined Civil and Criminal Federal Court Management Statistics, p. 35 (June 30, 2024), accessed at https://www.uscourts.gov/statistics-reports/federal-court-management-statistics-june-2024 on August 9, 2024
EX. 2002	Global Dossier Patent Family for U.S. Pub. No. 20050280877 (Watanabe), accessed at https://globaldossier.uspto.gov/result/publication/US/20050280877/118382 on August 9, 2024
EX. 2003	Extract from the Register of European Patents for EP1608140 (Watanabe foreign counterpart), accessed at https://register.epo.org/application?number=EP05253548&Ing=en&tab=doclist on August 13, 2024
EX. 2004	Translation of Japanese Patent Application No. 2004-233872, submitted during prosecution of EP1608140 on June 1, 2006 ("EPO Translation")
EX. 2005	Written submission in preparation to/during oral proceedings, submitted during prosecution of EP1608140 on April 5, 2011
EX. 2006	Skolnick, David, et al., "Why Use DSP? Digital Signal Processing 101 – An introductory course in DSP system design: Part 1", Analog Dialogue, vol. 31, no. 1, pp. 3-6 (1997), accessed at https://www.analog.com/media/en/analog-dialogue/volume-31/number-1/articles/volume31-number1.pdf on August 20, 2024
EX. 2007	Harris, Tom, "How Camcorders Work - The CCD", Internet Archive (Nov. 24, 2005), accessed at https://web.archive.org/web/20051124054808/https://electronics.howstuffworks.com/camcorder2.htm on August 17, 2024
EX. 2008	Wilson, Tracy, et al., "How Digital Cameras Work", Internet Archive (Nov. 25, 2005), accessed at

	https://web.archive.org/web/20051125112635/ http://electronics.howstuffworks.com/digital-camera.htm on August 17, 2024
EX. 2009	Wilson, Tracy, et al., "How Digital Cameras Work - More on Capturing Color", Internet Archive (Nov. 25, 2005), accessed at https://web.archive.org/web/20051125115620/ http://electronics.howstuffworks.com/digital-camera5.htm on August 17, 2024
EX. 2010	Wilson, Tracy, et al., "How Digital Cameras Work - A Filmless Camera", Internet Archive (Nov. 25, 2005), accessed at https://web.archive.org/web/20051125115507/ http://electronics.howstuffworks.com/digital-camera2.htm on August 17, 2024
EX. 2011	U.S. Patent No. 7,612,805 ("the '805 Patent")
EX. 2012	U.S. Patent No. 8,451,339 ("the '339 Patent")
EX. 2013	Patent Owner's Proposed Schedule in Parallel Litigation
EX. 2014	Order Governing Proceedings, No. 4:23-cv-928, Dkt. 24 (E.D. Tex. July 23, 2024)
EX. 2015	RESERVED
EX. 2016	RESERVED
EX. 2017	Laub Expert Declaration on U.S. Patent No. 7,612,805, originally submitted in IPR2024-00924 as EX. 1003
EX. 2018	Laub Expert Declaration on U.S. Patent No. 8,451,339, original submitted in IPR2024-00925 as EX. 1003
EX. 2019	U.S. Patent No. 8,849,964 ("Ralston"), originally submitted in IPR2024-00924 as EX. 1081

EX. 2020	Laub Deposition Transcript regarding IPR2024-00923, IPR2024-00924, and IPR2024-00925, dated February 5, 2025
EX. 2021	Printout of Website titled "Digital Photo Professional" accessed at https://en.canon-cna.com/support/consumer_products/software/digital-photo-professional.html?softwareid=tcm:257-1328049&os=all on February 24, 2025
EX. 2022	Printout of Website titled "Canon EOS Rebel T6s First Impressions Review" accessed at https://www.reviewed.com/cameras/content/canon-eos-rebel-t6s-first-impressions-review on February 24, 2025
EX. 2023	Printout of Website titled "Canon T6s Review" accessed at https://www.imaging-resource.com/PRODS/canon-t6s/canon-t6sA.HTM on February 24, 2025
EX. 2024	Printout of Website titled "Canon EOS Rebel T6s Review" accessed at https://www.pcmag.com/reviews/canon-eos-rebel-t6s on February 24, 2025
EX. 2025	Printout of Website titled "Canon T6s (EOS 760D)" accessed at https://www.kenrockwell.com/canon/t6s.htm on February 24, 2025
EX. 2026	Printout of Website titled "EOS Rebel T6s" subtitled "Overview" accessed at https://www.cla.canon.com/cla/en/support/consumer/cameras/eos_cameras/eos_rebel_t6s# on February 24, 2025
EX. 2027	Printout of Website titled "EOS Rebel T6s" subtitled "Specifications" accessed at https://www.cla.canon.com/cla/en/support/consumer/cameras/eos_cameras/eos_rebel_t6s#specificationsTab on February 24, 2025
EX. 2028	Canon EOS Rebel T6s Instruction Manual accessed at https://gdlp01.c-wss.com/gds/4/0300018244/04/eos-rebelt6s-760d-im4-en.pdf on February 24, 2025

EX. 2029	Printout of Website titled "Canon DIGIC 6 Processor and New 18Mp APS-C CMOS Sensor Arrives" accessed at https://thenewcamera.com/canon-digic-6-processor-and-new-18mp-aps-c-cmos-sensor-arrives/ on February 24, 2025
EX. 2030	Printout of Website titled "Canon EOS 80D Review" accessed at https://photographic-central.blogspot.com/2017/10/canon-eos-80d-review.html#google_vignette on February 24, 2025
EX. 2031	Printout of Website titled "More About the EOS 80D (Part 2) – Technology" accessed at https://snapshot.canon-asia.com/article/eng/more-about-the-eos-80d-part-2-technology on February 24, 2025
EX. 2032	Printout of Website titled "First Impressions Review: Using the Canon PowerShot G16" accessed at https://www.dpreview.com/reviews/first-impressions-review-using-the-canon-powershot-g16#:~:text=The%20DIGIC%206%20processor%20delivers,to%20a%20lot%20of%20people on February 24, 2025
EX. 2033	Printout of Website titled "EOS Rebel T6s" subtitled "Features" accessed at https://www.cla.canon.com/cla/en/support/consumer/cameras/eos_cameras/eos_rebel_t6s#featuresTab on February 24, 2025
EX. 2034	Printout of Website titled "Technology Used in Digital SLR Cameras" accessed at https://global.canon/en/technology/support14.html#:~:text=When%20light%20enters%20the%20camera,data%20based%20on%20the%20signal on February 24, 2025
EX. 2035	Printout of Website titled "5 Things Made Possible with DIGIC Image Processor" accessed at https://snapshot.canon-asia.com/article/eng/5-things-made-possible-with-digic-image-processor on February 24, 2025
EX. 2036	Printout of Website titled "Settings Configured in [Camera Settings]" accessed at https://cam.start.canon/en/S003/manual/html/UG-02_CameraSetting_0020.html on February 24, 2025

EX. 2037	Printout of Website titled "2019 camera market share: Canon 45.4%, Sony 20.2%, Nikon 18.6%, Fuji 4.7%, Panasonic 4.7%" accessed at https://nikonrumors.com/2020/08/14/2019-camera-market-share-canon-45-4-sony-20-2-nikon-18-6-fuji-4-7-panasonic-4-7.aspx/ on February 24, 2025
EX. 2038	Printout of Website titled "Digital Camera Market Share 2020: Only Canon, Sony and Fujifilm Grow" accessed at https://www.fujirumors.com/digital-camera-market-share-2020-only-canon-sony-and-fujifilm-grow/ on February 24, 2025
EX. 2039	Printout of Website titled "The latest digital camera global market share (2021)" accessed at https://nikonrumors.com/2022/11/22/the-latest-digital-camera-global-market-share-2021.aspx/ on February 24, 2025
EX. 2040	Printout of Website titled "Digital Camera Market Share 2022: Canon Dominates Ahead of Sony and Nikon, Fujifilm 4th" accessed at https://www.fujirumors.com/digital-camera-market-share-2022-canon-dominates-ahead-of-sony-and-nikon-fujifilm-4th/ on February 24, 2025
EX. 2041	Printout of Website titled "How Canon and Sony Market Shares Display a Troubling Trend" accessed at https://www.thephoblographer.com/2024/09/23/canon-and-sony-market-shares-display-a-troubling-trend/ on February 24, 2025
EX. 2042	Printout of Website titled "Trendspotting: Canon, followed by the rest (digital camera market share 2024)" accessed at https://www.starkinsider.com/2024/09/trendspotting-canon-followed-by-the-rest-digital-camera-market-share-2024.html on February 24, 2025
EX. 2043	Canon Litigation Document – HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY
EX. 2044	Declaration of Dr. Omid Kia – HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY

EX. 2045	CV of Dr. Omid Kia
EX. 2046	Joint Protective Order
EX. 2047	Redlined version of the Joint Protective Order (compared to Default Protective Order)
EX. 2048	Executed Acknowledgements

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.54, Patent Owner respectfully requests the following:

First, Patent Owner respectfully requests that the Board grant this Motion to Seal Exhibits 2043 and 2044, which contain highly confidential material.

Second, Patent Owner respectfully requests that the Board grant this Motion to Seal the Patent Owner Response, which contains highly confidential material.

Third, Patent Owner respectfully requests that the Board enter the Joint Protective Order (EX. 2046).

Petitioner does not oppose this Motion.

II. LEGAL STANDARD

The Board may, for good cause, issue an order to protect a party or person from disclosing confidential information, including, but not limited to, "[r]equiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way." 37 C.F.R. § 42.54(a)(7).

A party may file a motion to seal where the motion to seal contains a proposed protective order and a certification that the moving party has in good faith conferred or attempted to confer with other affected parties. 37 C.F.R. § 42.54(a). Generally, "a movant to seal must demonstrate adequately 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." *Corning Optical Commc'ns RF, LLC v. PPC Broadband, Inc., Case IPR2014-00736*, Paper 38, at 2-3 (PTAB Apr. 14, 2015).

III. SEALING OF EXHIBITS 2043 AND 2044

A. EXHIBIT 2043 (CANON LITIGATION DOCUMENT)

Confidentiality: Exhibit 2043 contains highly sensitive material. The entirety of Exhibit 2043 was designated "HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY" by third-party Canon Inc. ("Canon") in district court litigation. Patent Owner is obligated to maintain this same level of protection in this proceeding. Patent Owner agrees that Exhibit 2043 is properly designated. Petitioner does not oppose this designation.

The nature and content of Exhibit 2043 has not been publicly disclosed. Patent Owner has taken steps to guard against its disclosure in, for example, district court litigation with Petitioner. *Optimum Imaging Technologies LLC v. Sony Corporation*, No. 4:23-cv-00928 (E.D. Tex.)("the Sony Litigation"). Exhibit 2043 requires filing entirely under seal and accordingly, no public version of this exhibit has been filed.

Consequences of disclosure: Patent Owner would be significantly harmed by disclosure of Exhibit 2043 at least because Patent Owner would be in violation of protective orders in district court litigation, including the Sony Litigation.

Importance: Exhibit 2043 is referenced in the expert declaration (EX. 2044) and the Patent Owner Response ("POR"). Patent Owner, and its expert, rely on Exhibit 2043 in regard to secondary considerations of non-obviousness. Exhibit 2043 is the best and only evidence and there is no public version of the document.

Balance of interests: Patent Owner's interest in protecting this highly sensitive information outweighs the Public's interest in a complete file history. To serve the Public's interest, public versions of the expert declaration and the POR are submitted concurrently. The harm to Patent Owner, if Exhibit 2043 were disclosed, and Patent Owner's need to rely on Exhibit 2043, favor sealing Exhibit 2043.

Accordingly, good cause exists to seal Exhibit 2043.

B. EXHIBIT 2044 (EXPERT DECLARATION)

Exhibit 2044 is the expert declaration, which references highly sensitive material in Exhibit 2043, discussed above. Exhibit 2044 is designated as "HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY".

To serve the Public's interest, a public version of the expert declaration is submitted concurrently. The public version redacts information that refers to or incorporates highly sensitive material from Exhibit 2043.

For the same reasons as discussed above, the harm to Patent Owner, if Exhibit 2044 were disclosed in its entirety, and Patent Owner's need to rely on Exhibit 2044, favor sealing Exhibit 2044.

IV. SEALING OF THE PATENT OWNER RESPONSE

The POR references highly sensitive material in Exhibits 2043 and 2044, discussed above. The POR is designated as "HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY".

To serve the Public's interest, a public version of the POR is submitted concurrently. The public version redacts information that refers to or incorporates highly sensitive material from Exhibits 2043 and 2044.

For the same reasons as discussed above, the harm to Patent Owner, if the POR were disclosed in its entirety, and Patent Owner's need to submit the POR to defend the validity of the challenged patent, favor sealing the POR.

V. ENTRY OF THE JOINT PROTECTIVE ORDER

With this Motion to Seal, Patent Owner respectfully requests that the Board enter the Joint Protective Order (EX. 2046). Patent Owner respectfully submits that the Joint Protective Order (EX. 2046) is consistent with the integrity and efficient

administration of the proceeding. *See* Consolidated Trial Practice Guide (November 2019)("TPG") at 115. The parties have agreed to the terms of the Joint Protective Order and Petitioner does not oppose this Motion.

The Joint Protective Order is based on the Board's default protective order, with modifications as shown in the Redlined Version of the Joint Protective Order (EX. 2047). The Joint Protective Order deviates from the Board's default protective order primarily by defining two levels of confidentiality: "CONFIDENTIAL" and "HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY". The Joint Protective Order includes a second tier for "highly confidential" material that is for "outside attorneys' eyes only" and not to be shared with the petitioner or its in-house counsel. *See* EX. 2046, paragraph 5.

As outlined in paragraph 4 of the Joint Protective Order, "highly confidential" material may include unpublished technical information, trade secret information, and financial information. These modifications are made to preserve the highly confidential nature of Exhibit 2043, discussed above, which requires a higher level of protection than what is offered in the Board's default protective order.

Patent Owner certifies that it has in good faith conferred with Petitioner and the parties have no disputes regarding the Joint Protective Order.

Patent Owner respectfully submits that the proposed modifications are appropriate for at least three reasons:

First, the parties agree to the proposed modifications, which are consistent with the integrity and efficient administration of the proceeding. "The Board will consider changes agreed to by the parties, and generally will accept such proposed changes if they are consistent with the integrity and efficient administration of the proceedings." TPG at 115.

Second, with Canon's consent, Exhibit 2043 has been produced in pending district court litigation, *e.g.*, the Sony Litigation, and is subject to district court protective orders. PO is obligated to maintain the same level of protection in this proceeding.

Third, the parties have no disputes regarding the confidentiality designation of Exhibit 2043 and the parties have no disputes regarding the access restrictions.

Thus, Patent Owner respectfully requests that the Board enter the Joint Protective Order (EX. 2046) in this proceeding. Furthermore, Patent Owner understands that the terms of a protective order take effect upon the filing of a Motion to Seal by a party and remain in place until lifted or modified by the Board. *See* TPG at 107.

Respectfully submitted,

Date: February 26, 2025

By: /s/ *Thomas M. Dunham*

Thomas M. Dunham
Reg. No. 39,965

Cherian LLP
1901 L Street NW, Suite 700
Washington, D.C. 20036
(202) 838-1567

ATTORNEY FOR PATENT OWNER,
OPTIMUM IMAGING TECHNOLOGIES LLC

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITS

This Motion is within the 15 page-limit, in compliance with 37 C.F.R. § 42.24(a)(1)(v).

Respectfully submitted,

Date: February 26, 2025

By: /s/ *Thomas M. Dunham*

Thomas M. Dunham
Reg. No. 39,965

Cherian LLP
1901 L Street NW, Suite 700
Washington, D.C. 20036
(202) 838-1567

ATTORNEY FOR PATENT OWNER,
OPTIMUM IMAGING TECHNOLOGIES LLC

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that PATENT OWNER'S MOTION TO SEAL AND TO ENTER THE JOINT PROTECTIVE ORDER and all exhibits thereto were served on the undersigned date via email, as authorized by Petitioner, at the following email addresses:

SMcKeown-PTAB@WolfGreenfield.com

AWichman-PTAB@WolfGreenfield.com

RPritzker-PTAB@WolfGreenfield.com

Respectfully submitted,

Date: February 26, 2025

By: /s/ *Thomas M. Dunham*
Thomas M. Dunham
Reg. No. 39,965

Cherian LLP
1901 L Street NW, Suite 700
Washington, D.C. 20036
(202) 838-1567

ATTORNEY FOR PATENT OWNER,
OPTIMUM IMAGING TECHNOLOGIES LLC