

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEXAS INSTRUMENTS INC.
and NXP USA, INC.,
Petitioners,

v.

PARKERVISION, INC.,
Patent Owner.

IPR2024-00935¹
Patent 7,865,177 B2

Before MICHAEL R. ZECHER, BART A. GERSTENBLITH, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

ORDER

Granting in Part and Dismissing as Moot in Part
Patent Owner's Motions to Seal

Granting Petitioner's Motions to Seal

Granting Patent Owner's Motion for Entry of a Protective Order

37 C.F.R. §§ 42.14, 42.54

¹ NXP USA, Inc., who filed a petition in IPR2024-01066, is joined as petitioner in this proceeding.

I. INTRODUCTION

Patent Owner filed an Unopposed Motion for Entry of Default Protective Order and Motion to Seal (Paper 18) seeking to seal several documents in this proceeding that Patent Owner asserts contain its confidential business information. Paper 18, 1. Subsequently, Patent Owner filed a Corrected Unopposed Motion for Entry of Default Protective Order and Motion to Seal (Paper 20, “Motion” or “Mot.”).² Thereafter, as this proceeding progressed, the parties individually filed nine additional motions to seal documents that referred to the same or similar information that Patent Owner contends is confidential business information. *See* Paper 34 (Petitioner’s Motion to Seal); Paper 43 (Patent Owner’s Motion to Seal)³; Paper 46 (Patent Owner’s Unopposed Motion to Seal); Paper 51 (Petitioner’s Motion to Seal); Paper 55 (Patent Owner’s Unopposed Motion to Seal); Paper 57 (Petitioner’s Motion to Seal); Paper 59 (Patent Owner’s Motion to Seal); Paper 63 (Patent Owner’s Unopposed Motion to Seal); Paper 65 (Petitioner’s Unopposed Motion to Seal). Additionally, based on the parties’ request, the oral hearing was conducted under seal. *See* Ex. 3003 (Emails requesting and approving sealing the hearing room for oral argument).

² Paper 18 will be dismissed as moot because Patent Owner filed a corrected version of the same motion as Paper 20.

³ Patent Owner states that Paper 43 was refiled as Paper 46 to indicate that it is “Unopposed.” Paper 46. Paper 46, n.2 (noting that after correspondence from Petitioner, “Patent Owner is refiling their motion to seal as unopposed”). Accordingly, Paper 43 also will be dismissed as moot.

II. THE DOCUMENTS AT ISSUE

The pending motions to seal request sealing the following documents, which are listed below with the paper number of the relevant motion:

Paper 20⁴

- Patent Owner's Response (Paper 19);
- Exhibit 2010 (Boeing Report, dated Apr. 29, 1998);
- Exhibit 2011 (ParkerVision schematic, dated Jan. 20, 1998);
- Exhibit 2012 (Eddie chip layout, dated Mar. 6, 1997);
- Exhibit 2013 (ParkerVision circuit board layout);
- Exhibit 2014 (ParkerVision schematic, dated Aug. 21, 1997);
- Exhibit 2015 (conception/reduction to practice chart);
- Exhibit 2016 (Declaration of David Sorrells);
- Exhibit 2021 (Universal Direct Conversion Receiver Evaluation ASIC Contract between ParkerVision and The Boeing Company);
- Exhibit 2022 (notes from Boeing tests);
- Exhibit 2024 (Declaration of Dr. David Ricketts); and
- Exhibit 2029 (spreadsheet showing ParkerVision files).

Paper 34

- Petitioner's Reply to Patent Owner's Response (Papers 33, 54⁵);

⁴ The Exhibit List in Patent Owner's redacted Response (Paper 21) includes the following descriptions of the exhibits subject to this Motion to Seal.

⁵ Petitioner initially filed its Reply to Patent Owner's Response without being marked confidential. *See* Paper 33. After filing its Motion to Seal (Paper 51), Petitioner refiled its Reply to Patent Owner's Response with a confidential marking. *See* Paper 54.

- Exhibit 1044 (excerpt from Plaintiff's Supplemental Objections and Responses to Defendant's First Set of Interrogatories (1–6), 6:14-cv-00867-PGB-KRs (M.D. Fla.);
- Exhibit 1065 (deposition transcript of Dr. David Ricketts, dated June 13, 2025);
- Exhibit 1067 (Declaration of Dr. James Dickens); and
- Exhibit 1068 (deposition transcript of David Sorrells, dated May 23, 2025).

Paper 46⁶

- Patent Owner's Sur-reply (Paper 44);
- Exhibit 2041 (deposition transcript of James Dickens, dated July 18, 2025); and
- Exhibit 2042 (Figure 7-3 from Exhibit 2010 (Boeing Report, dated Apr. 29, 1998)).

Paper 51

- Petitioner's Motion to Exclude (Papers 47, 52⁷) and
- Petitioner's Opposition[] to Patent Owner's Motion to Exclude (Papers 49, 53⁸).

⁶ The Exhibit List in Patent Owner's redacted Sur-reply (Paper 45) includes the following descriptions of the exhibits subject to this Motion to Seal.

⁷ Petitioner initially filed its Motion to Exclude without being marked confidential. *See* Paper 47. After filing its Motion to Seal (Paper 51), Petitioner refiled its Motion to Exclude with a confidential marking. *See* Paper 52.

⁸ Petitioner initially filed its Opposition[] to Patent Owner's Motion to Exclude without being marked confidential. *See* Paper 49. After filing its Motion to Seal (Paper 51), Petitioner refiled its Opposition[] with a confidential marking. *See* Paper 53.

Paper 55

- Patent Owner's Motion to Exclude (Paper 48) and
- Patent Owner's Opposition to Petitioner's Motion to Exclude (Paper 50).

Paper 57

- Petitioner's Reply to Patent Owner's Opposition to Petitioner's Motion to Exclude (Paper 58).

Paper 59

- Patent Owner's Reply in Support of its Motion to Exclude (Paper 56).

Paper 63

- Exhibit 2043 (Patent Owner's oral hearing demonstratives).

Paper 65

- Exhibit 1070 (Petitioner's oral hearing demonstratives).

III. MOTIONS TO SEAL

Each of the motions to seal and the documents sought to be sealed pertain to Patent Owner's confidential business information. Referring first to Paper 20, Patent Owner argues good cause exists for maintaining the documents under seal. *See* Mot. 1–2. Patent Owner contends that the documents “contain confidential technical, product, and business information.” *Id.* at 1 (citing 37 C.F.R. § 42.54). Patent Owner contends that the public can understand the arguments raised from the redacted versions of the documents so the public's understanding of the issues in this proceeding will not be substantially reduced by the requests to seal. *Id.* at 2. Additionally, Petitioner does not oppose Patent Owner's Motion to Seal. Mot. 1, n.2.

Following Paper 20, as noted above, the parties individually filed nine motions to seal documents that refer to the same or similar information that Patent Owner contends is confidential business information. For example, in Petitioner’s first Motion to Seal, Petitioner states “because Petitioner’s Reply to Patent Owner’s Response and above identified accompanying exhibits describe and refer to material that Patent Owner moved to seal, Petitioner respectfully submits this Motion to Seal.” Paper 34, 2.

IV. ANALYSIS

The standard for granting a motion to seal is “for good cause.” 37 C.F.R. § 42.54(a). The party moving to seal bears the burden to show entitlement to the requested relief, and to establish that information sought to be sealed is confidential information. *Id.* § 42.20(c). The “good cause” standard for granting a motion to seal reflects the strong public policy for making all information in an *inter partes* review open to the public. *Argentum Pharms. LLC v. Alcon Rsch., Ltd.*, IPR2017-01053, Paper 27 at 3 (PTAB Jan. 19, 2018) (informative). When assessing whether the standard has been met, we may consider whether the information at issue is truly confidential, whether harm would result upon public disclosure, and whether the interest in maintaining confidentiality as to the information outweighs the strong public interest in an open record. *Id.* at 3–4.

We have reviewed the documents at issue, summarized above. We agree with Patent Owner’s argument that they reflect confidential business information which is worthy of protection via a protective order. We also agree with Patent Owner’s argument that the public filing of redacted versions of several of the documents at issue strikes the right balance “between the public’s interest in maintaining a complete and understandable

file history and the parties' interest in protecting truly sensitive information." Consolidated Trial Practice Guide (Nov. 2019) ("Consolidated Guide"),⁹ Section I.E.3 (Motion to Seal). For example, Patent Owner's reliance on the sealed portions of the Papers and Exhibits is discernable from the redacted version of Patent Owner's Response, which reflects that the materials pertain to Patent Owner's assertions regarding conception and reduction to practice. *See, e.g.*, Paper 21, ii (Table of Contents). We determine good cause exists for granting the motions to seal submitted as Papers 20, 34, 46, 51, 55, 57, 59, 63, and 65.

Although we make the determination above, there are several Papers and Exhibits in this proceeding filed under seal that also contain information that is not confidential. For example,¹⁰ we note at least the following Papers and Exhibits that appear to fall within this category:

- Paper 47 (Petitioner's Motion to Exclude);
- Paper 48 (Patent Owner's Motion to Exclude);
- Paper 49 (Petitioner's Opposition to Patent Owner's Motion to Exclude);
- Paper 50 (Patent Owner's Opposition to Petitioner's Motion to Exclude);
- Paper 56 (Patent Owner's Reply in Support of its Motion to Exclude);
- Paper 58 (Petitioner's Reply to Patent Owner's Opposition to Petitioner's Motion to Exclude);

⁹ Available at <https://www.uspto.gov/patents/ptab/trial-practice-guide>.

¹⁰ This is a non-exclusive list. There may be other Papers and Exhibits not listed here that the parties determine can be filed in redacted form. Redacted versions of those documents also should be filed.

- Exhibit 1065 (deposition transcript of Dr. David Ricketts, dated June 13, 2025);
- Exhibit 1067 (Declaration of Dr. James Dickens);
- Exhibit 1068 (deposition transcript of David Sorrells, dated May 23, 2025);
- Exhibit 1070 (Petitioner's oral hearing demonstratives);
- Exhibit 2016 (Declaration of David Sorrells);
- Exhibit 2041 (deposition transcript of James Dickens, dated July 18, 2025); and
- Exhibit 2043 (Patent Owner's oral hearing demonstratives).

The parties shall meet and confer and agree upon a course of action to redact at least the above Papers and Exhibits. One option for accomplishing this review is for Patent Owner to complete all of the redactions in the first instance (since the information is Patent Owner's confidential information) and share the Papers and Exhibits with Petitioner for review and filing, while Patent Owner files its own documents after redaction. In particular, it is important that the party that originally filed the document be the party that files the redacted version of that document so that the exhibit numbers of the redacted documents match the exhibit numbers of the sealed documents. Additionally, the name of the redacted document shall indicate that it is redacted (e.g., as shown for Paper 21). The parties are cautioned that redactions should be limited to *only* the information deemed confidential business information and should not be used excessively.

The Board is available to discuss if the parties encounter difficulties with this process, but we expect the parties to be able to handle this task on their own. To the extent that any of the above documents are not filed in redacted form by the date noted below, the Board may revisit this decision

granting the motions to seal and may deny one or more of the motions to seal and unseal the relevant document(s).

V. PROTECTIVE ORDER

Patent Owner's Motion to Seal (Paper 20) requests that we enter the Default Protective Order provided in the Consolidated Guide and reproduced in Exhibit A attached to the Motion. *See* Mot. 2, Ex. A. In light of Patent Owner's unopposed request, we will enter the Default Protective Order, and the documents sealed by the present Order are sealed pursuant to that Protective Order.

VI. CONCLUSION

For the foregoing reasons, we grant the parties' motions to seal as described above. Papers 18 and 43 will be dismissed as moot because each of those motions was replaced with a revised motion. Additionally, we enter the Default Protective Order as shown in Exhibit A attached to Paper 20.

We remind the parties of the public's interest in maintaining a complete and understandable file history, and of the general expectation that information will be made public where the existence of the information is identified in a final written decision following a trial. *See* Consolidated Guide, Section I.E.6. We also note that confidential business information subject to a protective order ordinarily becomes public 45 days after final judgment in a trial. *See id.* After final judgment, a party may file a motion to expunge confidential information from the record prior to the information becoming public. *See id.*; 37 C.F.R. § 42.56.

VII. ORDER

Accordingly, it is

ORDERED that Patent Owner's Motions to Seal (Papers 20, 46, 55, 59, and 63) and Petitioner's Motions to Seal (Papers 34, 51, 57, and 65) are *granted*;

FURTHER ORDERED that Patent Owner's Motions to Seal (Papers 18 and 43) are *dismissed as moot* because these motions were refiled;

FURTHER ORDERED that the parties shall meet and confer and file redacted versions of at least Papers 47–50, 56, and 58 and Exhibits 1065, 1067, 1068, 1070, 2016, 2041, and 2043 by **March 6, 2026**, or the Board may revisit this decision granting the motions to seal and may deny one or more of the motions to seal and unseal the relevant document(s); and

FURTHER ORDERED that the Default Protective Order attached as Exhibit A to Paper 20 will govern this proceeding.

IPR2024-00935
Patent 7,865,177 B2

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