

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOE TECHNOLOGY GROUP CO., LTD.,
Petitioner,

v.

138 EAST LCD ADVANCEMENTS LIMITED,
Patent Owner.

Case No. IPR2024-00973
U.S. Patent No. 9,184,157

**PETITIONER'S UNOPPOSED MOTION TO SEAL AND
ENTER AGREED-TO PROTECTIVE ORDER**

I. Introduction

Petitioner BOE Technology Group Co., Ltd., requests entry of the parties' agreed-to Protective Order attached as Appendix A and that Exhibit 1026 be sealed under 37 C.F.R. § 42.54. Good cause to seal this document in its entirety exists because the information in Exhibit 1026 contains highly confidential information that requires a modified protective order.

In accordance with the Board's Order (Paper 32), counsel for Petitioner and Patent Owner met and conferred and agree to submit the excerpts in Exhibit 1026, related to the '157 patent. The document in Exhibit 1026 is confidential in the co-pending litigation and the parties agreed on the meet and confer to maintain the confidentiality designation consistent with the protection in district court and to the additional "PROTECTIVE ORDER MATERIAL – ATTORNEYS' EYES ONLY" designation in the attached modified protective order. The information sought to be sealed has not been made public.

The Board's November 2019 Consolidated Trial Practice Guide ("CTPG") provides that the parties "may propose modifications to the Default Protective Order." CTPG at 115. It also provides that the Board "generally will accept such proposed changes" that are "agreed to by the parties." *Id.* The parties have agreed to modify the Board's Default Protective Order (*see id.* at 117-122) by adding the designation "PROTECTIVE ORDER MATERIAL – ATTORNEYS' EYES

ONLY” in Sections 1 and 3, as well as Section 5, which further confirms that disclosures are limited to the persons specified in Sections 2-4. A clean copy of the proposed agreed-upon Protective Order and a redline against the Default Protective Order are attached as Appendices A and B, respectively.

II. Governing Rules and PTAB Guidance

Under 35 U.S.C. § 316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public, but a party may file a concurrent motion to seal and the information at issue shall be sealed pending the outcome of the motion.

Similarly, 37 C.F.R. § 42.14 provides:

The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.

It is, however, only “confidential information” that is protected from disclosure. 35 U.S.C. § 316(a)(7) (“The Director shall prescribe regulations -- . . . providing for protective orders governing the exchange and submission of confidential information”). In that regard, the Consolidated Trial Practice Guide provides:

The rules aim to strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information.

* * *

Confidential information: The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information. 37 C.F.R. § 42.54.

III. Identification of Confidential Information

Exhibit 1026 contains highly confidential information for attorneys' eyes only that is not publicly available.

IV. Good Cause Exists for Sealing the Confidential Information

Exhibit 1026 contains excerpts from the Rebuttal Report of Dr. Shukri Sourì Regarding Non-Infringement in the co-pending proceeding *Longitude Licensing Limited, 138 v. BOE Technology Group Co., Ltd.*, Civil Action No. 2:23-cv00515-JRG-RSP (E.D. Tex.). In that proceeding, Exhibit 1026 is marked "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the corresponding protective order.

Petitioner seeks to seal Exhibit 1026 under a commensurate designation in this proceeding, PROTECTIVE ORDER MATERIAL – ATTORNEYS' EYES ONLY, because Exhibit 1026 contains extremely sensitive confidential information,

including confidential technical information about Petitioner's products, the disclosure of which to another party or non-party would create a substantial risk of serious harm that could not be avoided by less restrictive means. The level of protection sought is commensurate with the protection already afforded in the district court proceeding. The information sought to be sealed has not been made public.

Accordingly, there is good cause to grant this motion to seal.

V. Proposed Protective Order

Pursuant to 37 C.F.R. § 42.54(a), Petitioner proposes that the Board enter the modified protective order attached as Appendix A. Patent Owner does not oppose entry of this proposed Protective Order. A redline showing the minor modifications to the Default Protective Order is also attached as Appendix B.

VI. Conclusion

For the reasons set forth above, Petitioner respectfully requests that the Board grant this unopposed motion to seal and enter the proposed, agreed-to Protective Order attached as Appendix A.

Respectfully submitted,

Dated: November 21, 2025

By: /Kevin D. Rodkey/
Kevin D. Rodkey
Reg. No. 65,506

Counsel for Petitioner
BOE Technology Group Co., Ltd.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing **Petitioner's Unopposed Motion to Seal and Enter Agreed-To Protective Order** was served on November 21, 2025, via email directed to counsel of record for Patent Owner at the following:

Cyrus A. Morton
Samuel J. LaRoque
Aaron R. Fahrenkrog
Emily J. Tremblay
William R. Jones
Benjamin C. Linden

Robins Kaplan LLP
800 LaSalle Avenue, Suite 2800
Minneapolis, MN 55402

CMorton@RobinsKaplan.com
SLaRoque@RobinsKaplan.com
AFahrenkrog@RobinsKaplan.com
ETremblay@RobinsKaplan.com
WJones@RobinsKaplan.com
BLinden@RobinsKaplan.com

Dated: November 21, 2025

By: / William Esper /
William Esper
Senior Litigation Paralegal
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP

APPENDIX A

AGREED PROTECTIVE ORDER

The following Default Protective Order will govern the filing and treatment of confidential information in this proceeding:

Agreed Protective Order

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL” or “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY.”
2. Access to confidential information labeled “PROTECTIVE ORDER MATERIAL” is limited to the following individuals who have executed the acknowledgment appended to this order:
 - (A) Parties. Persons who are owners of a patent involved in this proceeding and other persons who are named parties to this proceeding.
 - (B) Party Representatives. Representatives of record for a party in this proceeding.

- (C) Experts. Retained experts of a party in this proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of this proceeding.
- (D) In-house counsel. In-house counsel of a party.
- (E) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in this proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.
- (F) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Access to confidential information labeled “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” is limited to the following individuals who have executed the acknowledgment appended to this order:

- (A) Attorney of Record. Outside counsel of record for a party in this proceeding.
- (B) Experts. Retained experts of a party in this proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of this proceeding.
- (C) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in this proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.
- (D) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and

representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

4. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in Sections 2 and 3, shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

5. Confidential information shall not be disclosed to any person, except as permitted in Sections 2-4 above.

6. Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

- (A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;
- (B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than

those the recipient uses to maintain the confidentiality of
information not received from the disclosing party;

- (C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and
- (D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of this proceeding and maintaining a record of the locations of such copies.

7. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) Documents and Information Filed With the Board.

- (i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The documents or information shall remain under seal

unless the Board determines that some or all of it does not qualify for confidential treatment.

- (ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties.

Documents (including deposition transcripts) and other information designated as confidential that are disclosed to

another party during discovery or other proceedings before the Board shall be clearly marked as “PROTECTIVE ORDER MATERIAL” or “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” and shall be produced in a manner that maintains its confidentiality.

8. Within sixty (60) days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

(A) Acknowledgement of Protective Order. The following form attached as Appendix A may be used to acknowledge a protective order and gain access to information covered by the protective order:

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOE TECHNOLOGY GROUP CO., LTD., Petitioner,

v.

138 EAST LCD ADVANCEMENTS LIMITED,

Patent Owner.

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Appendix A: Acknowledgment for Access to Protective Order Material

I, _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the

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Eastern District of Virginia for purposes of enforcing the terms of the Protective
Order and providing remedies for its breach.

Name:

APPENDIX B

AGREED PROTECTIVE ORDER

The following Default Protective Order will govern the filing and treatment of confidential information in this ~~the~~ proceeding:

Agreed Protective Order

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.” or “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY.”

2. Access to confidential information labeled “PROTECTIVE ORDER MATERIAL” is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) Parties. Persons who are owners of a patent involved in this ~~the~~ proceeding and other persons who are named parties to this ~~the~~ proceeding.

(B) Party Representatives. Representatives of record for a party in this ~~the~~ proceeding.

- (C) Experts. Retained experts of a party in ~~this the~~ proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of ~~this the~~ proceeding.
- (D) In-house counsel. In-house counsel of a party.
- (E) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in ~~this the~~ proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.
- (F) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Access to confidential information labeled “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” is limited to the following individuals who have executed the acknowledgment appended to this order:

- (A) Attorney of Record. Outside counsel of record for a party in this proceeding.
- (B) Experts. Retained experts of a party in this proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of this proceeding.
- (C) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in this proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.
- (D) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and

representatives shall include the Director, members of the Board
and their clerical staff, other support personnel, court reporters,
and other persons acting on behalf of the Office.

3.4. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in ~~(d)(2)(A)–(E)~~ Sections 2 and 3, shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

5. Confidential information shall not be disclosed to any person, except as permitted in Sections 2-4 above.

4.6. Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

- (A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;
- (B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than

those the recipient uses to maintain the confidentiality of
information not received from the disclosing party;

- (C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and
- (D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of ~~this~~ the proceeding and maintaining a record of the locations of such copies.

5.7. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

- (A) Documents and Information Filed With the Board.
 - (i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The documents or information shall remain under seal

unless the Board determines that some or all of it does not qualify for confidential treatment.

- (ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties.

Documents (including deposition transcripts) and other information designated as confidential that are disclosed to

another party during discovery or other proceedings before the Board shall be clearly marked as “PROTECTIVE ORDER MATERIAL” or “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” and shall be produced in a manner that maintains its confidentiality.

6-8. Within sixty (60) days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

- (A) ~~Standard~~ Acknowledgement of Protective Order. The following form attached as Appendix A may be used to acknowledge a protective order and gain access to information covered by the protective order:
-

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOE TECHNOLOGY GROUP CO., LTD., Petitioner,

v.

138 EAST LCD ADVANCEMENTS LIMITED,

Patent Owner.

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_____ [CAPTION]

~~Standard~~ Appendix A: Acknowledgment for Access to Protective Order
Material

I, _____, affirm that I have read the
Protective Order; that I will abide by its terms; that I will use the confidential
information only in connection with this proceeding and for no other purpose; that
I will only allow access to support staff who are reasonably necessary to assist me
in this proceeding; that prior to any disclosure to such support staff I informed or

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will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

[Signature]_____

Name: