

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.

IPR2024-00973
Patent 9,184,157 B2

Before GRACE KARAFFA OBERMANN, GEORGE R. HOSKINS, and
CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

HOSKINS, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion to Seal
37 C.F.R. §§ 42.14, 42.54

Petitioner has filed an Unopposed Motion to Seal Exhibit 1026. *See* Paper 33 (“Petitioner’s Motion” or “Mot.”). For reasons that follow, we *grant* Petitioner’s Motion.

Exhibit 1026 contains excerpts from the Rebuttal Expert Report of Dr. Shukri Sourì Regarding Non-Infringement in *Longitude Licensing Ltd., et al. v. BOE Tech. Group Co., Ltd.*, Case No. 2:23-cv-00515 (E.D. Tex.), a United States District Court litigation that is co-pending with the present IPR proceeding. *See* Mot. 3. Petitioner argues good cause exists for maintaining Exhibit 1026 under seal, because it contains highly confidential technical information about Petitioner’s products that has not been made public, and has been designated as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under a protective order entered by the District Court. *Id.* at 1, 3–4.

Petitioner also argues we should adopt the Board’s Default Protective Order¹ with modifications agreed upon by both parties, attached as Appendix A to Petitioner’s Motion and illustrated with red-lining in Appendix B to Petitioner’s Motion. *See id.* at 1–2, 3–4. These modifications add “PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” provisions that are commensurate with the District Court’s protective order. *Id.*

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

¹ *See* Consolidated Trial Practice Guide (Nov. 2019), 19–20 & Appx. B (“Consolidated Guide”, available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>).

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 Exhibit 1026. We agree with Petitioner’s argument that it reflects confidential technical information about Petitioner’s products that is worthy of protection via a protective order. It is also significant that Patent Owner does not oppose Petitioner’s Motion. Therefore, we determine good cause exists for granting Petitioner’s Motion.

We also have reviewed the parties’ jointly proposed changes to the Board’s Default Protective Order, and we conclude they are appropriate for this proceeding. Accordingly, we hereby enter the Agreed Protective Order attached as Appendix A to Petitioner’s Motion in this proceeding, and Exhibit 1026 is sealed by the present Order pursuant to the Agreed Protective Order.

We also 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*, 21–22. We also note that confidential 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.

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner's Motion to Seal (Paper 33) is *granted*; and

FURTHER ORDERED that that the Agreed Protective Order attached as Appendix A to Petitioner's Motion will govern this proceeding.

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