

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TABLEAU SOFTWARE, LLC
Petitioner,

v.

iCHARTS LLC,
Patent Owner.

IPR2024-01387
Patent 8,271,892 B2

Before DAVID C. McKONE, JASON M. REPKO, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

AHMED, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Motion to Seal and for Entry of Protective Order
37 C.F.R. §§ 42.5, 42.14, 42.54

Tableau Software, LLC (“Petitioner”) filed a Motion to Seal and for Entry of Protective Order (Paper 19, “Motion”). In its Motion, Petitioner requests that portions of Petitioner’s Reply (Paper 18) and Exhibit 1071 be sealed because they contain sensitive, nonpublic business information. Mot. 1–2. Petitioner also seeks the entry of the default protective order found in the Board’s Consolidated Trial Practice Guide,¹ App’x B (“Default Protective Order”) in this proceeding. *Id.* at 1. iCHARTS LLC (“Patent Owner”) has not filed an opposition to the motion. Petitioner represents that Patent Owner has stated it will not oppose this motion. *Id.*

A motion to seal may only be granted on a showing of good cause. 37 C.F.R. § 42.54(a). In general, the Board’s “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.” TPG at 19. The rules identify confidential information as “trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54). Applying the rules, the Board has required that

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.

Argentum Pharms. LLC v. Alcon Research, Ltd., IPR2017-01053, Paper 27 at 4 (PTAB Jan. 19, 2018) (informative). A protective order may be entered

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated> (“TPG”).

for good cause by the Board to protect a party from disclosing confidential information. 37 C.F.R. § 42.54(a).

Petitioner contends that the portions of Petitioner’s Reply and Exhibit 1071 sought to be sealed contain what Patent Owner has characterized as sensitive business information, including company ownership information. Mot. 2 (citing Ex. 1071, 94:12–95:1). Further, “the information sought to be sealed has not been published or otherwise made public.” *Id.* Petitioner contends that good cause exists to grant the motion to seal. *Id.* at 1–2 (citing 37 C.F.R. § 42.54; TPG 19). Petitioner has submitted redacted versions of these documents. Paper 17; Ex. 1071 (redacted).

We have considered Petitioner’s contentions and have reviewed the documents sought to be sealed. We are persuaded that Petitioner has shown good cause for maintaining portions of Petitioner’s Reply and Exhibit 1071 under seal. Accordingly, we *grant* Petitioner’s Motion to Seal and for Entry of the Default Protective Order (Paper 19). This matter shall be governed by the Default Protective Order set forth in the Consolidated Trial Practice Guide, and Petitioner’s confidential information shall be considered designated “PROTECTIVE ORDER MATERIAL” under that Order. *See* TPG, App’x B.

ORDER

It is, therefore,

ORDERED that Petitioner’s Motion to Seal and for Entry of the Default Protective Order (Paper 19) is *granted*; and

FURTHER ORDERED that this matter shall be governed by the Default Protective Order set forth in the TPG, and the identified confidential

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information shall be considered designated “PROTECTIVE ORDER MATERIAL” under that Order.

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