UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EUNSUNG GLOBAL CORP.,
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

Case No. IPR2024-01491

Patent No. 11,865,287

PATENT OWNER'S MOTION TO EXPUNGE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.56, the Modified Protective Order (Ex. 2024), and the Board's Decision Denying Institution (Paper 17), Patent Owner HydraFacial LLC ("HydraFacial") requests the Board expunge HydraFacial's confidential exhibits (sealed Exhibits 2009 and 2010) and unredacted POPR (sealed Paper 6) submitted in this proceeding. Because the Director denied Petitioner's request for Director review (Paper 21), the decision denying institution is final, and the Board may now grant this motion to expunge as appropriate under 37 C.F.R. § 42.7(a).

HydraFacial's sealed Exhibits 2009 and 2010 and unredacted POPR contain HydraFacial's highly confidential financial information that HydraFacial has designated as "CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER," "CONFIDENTIAL BUSINESS INFORMATION," or "PROTECTIVE ORDER MATERIAL" under the entered protective order. In particular, sealed Exhibits 2009 and 2010 and the unredacted POPR disclose at least "information which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the production, sales, shipments, purchases, transfers, identification of customers, inventories, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or other organization, or other information of commercial value, the disclosure of which is likely to have the effect of likely to have the effect of . . . (ii) causing substantial

harm to the competitive position of the person, firm, partnership, corporation, or other organization from which the information was obtained." Ex. 2024, ¶ 2.

Documents Filed as Confidential That Should Be Expunged From the Record

Sealed Exhibit 2010 is PDF printout of a spreadsheet summarizing confidential financial data related to global sales (revenue and units sold) for HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products. HydraFacial maintains the strict confidentiality of the information contained in sealed Exhibit 2010.

Sealed Exhibit 2009 is the Declaration of Mr. Vipul Savsani, HydraFacial's Global Vice President of Financial Planning and Analysis. Paragraphs 7 and 8 (including footnote 1) summarize confidential financial data contained in sealed Exhibit 2010. HydraFacial has filed a confidential, unredacted version of Exhibit 2009 and a public version of Exhibit 2009 with the summary of HydraFacial's confidential sales data redacted.

The POPR references the confidential financial data contained in sealed Exhibit 2010 and summarized in sealed Exhibit 2009. HydraFacial has filed a confidential, unredacted version of the POPR (Paper 6) and a public version of the POPR (Paper 7) with the references to HydraFacial's confidential sales data redacted.

None of the confidential financial data contained in sealed Exhibit 2010, the redacted portions of unsealed Exhibit 2009, or the redacted portions of the public POPR have been made public or were discussed in the Board's Decision Denying Institution of Inter Partes Review (Paper 17) or the Director's Order Denying Director Review of Institution Decision (Paper 21).

II. THE BOARD SHOULD EXPUNGE HYDRAFACIAL'S CONFIDENTIAL EXHIBITS AND UNREDACTED POPR

HydraFacial requests that HydraFacial's sealed Exhibits 2009 and 2010 and unredacted POPR (Paper 6) be expunged. These sealed exhibits and the unredacted POPR contain HydraFacial's highly confidential business information that would be harmful to HydraFacial if publicly released as discussed in HydraFacial's Motion to Seal and for Entry of a Protective Order (Paper 8). This motion is being timely filed within 45 days of the Director's Order Denying Director Review of Institution Decision (Paper 21). *See* Patent Trial Appeal Board Consolidated Trial Practice Guide November 2019, p. 21-22.

37 C.F.R. § 42.56 provides that "[a]fter denial of a petition to institute a trial . . . a party may file a motion to expunge confidential information from the record." Similarly, the Consolidated Trial Practice Guide states, in pertinent part, that "[t]here is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a

review" and that "[a] party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public." Consolidated Trial Practice Guide, p. 22. A party seeking expungement must show good cause by demonstrating "that any information sought to be expunged constitutes confidential information, and that Petitioner's interest in expunging it outweighs the public's interest in maintaining a complete and understandable history of this inter partes review." *Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, IPR2013-00453, Paper 97 at 2 (P.T.A.B. Apr. 15, 2015).

Good Cause Exists for Expungement

First, as detailed above, HydraFacial's highly confidential business information is contained in exhibits that are not cited in the Board's Decision Denying Institution of Inter Partes Review and the Director's Order Denying Director Review of Institution Decision.[1] Moreover, this information is highly confidential and would cause HydraFacial significant harm if it were disclosed.

[1] Sealed Exhibits 2009 and 2010 and the redacted portions of the public POPR are only cited with respect to granting HydraFacial's Motion to Seal and for Entry of Protective Order.

Second, HydraFacial's redactions are highly focused and only remove the confidential information as discussed above. For example, HydraFacial's public POPR features redactions on 4 pages.[2] The specific financial data used to demonstrate commercial success is not itself at issue in the dispute; rather, it is the fact of commercial success—regardless of the underlying financial details—that is relevant. This strikes the appropriate balance in maintaining the public's interest in maintaining a complete and open record with HydraFacial's own interest in protecting its confidential and highly sensitive information as noted in the Board's Decision Denying Institution of Inter Partes Review. *See* Paper 17 at 18 ("We find that Patent Owner's public filing of its redacted Patent Owner Preliminary Response (Paper 7) and redacted Savsani Declaration (Ex. 2009) 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.'"); *see also id.* at 18-19 ("[T]he general nature of Patent Owner's reliance on the sealed exhibits is discernable from the public version of the Patent Owner Preliminary Response.").

For these reasons, the Board should expunge sealed Exhibits 2009 and 2010 and sealed Paper 6.

[2] The redactions are on pages 1, 2, 53, and 55 and only relate to financial data supporting secondary consideration relating to commercial success.

III. CONCLUSION

For the above reasons, HydraFacial respectfully requests the Board grant this Motion to Expunge.

Respectfully Submitted,

Dated: August 15, 2025

/ Jacob L. Peterson /
Jacob L. Peterson (Reg. No. 65,096)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), I certify that on August 15, 2025, a copy of this **PATENT OWNER'S MOTION TO EXPUNGE** was served via the email correspondence address of record for Petitioner's counsel of record:

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Respectfully Submitted,

Dated: August 15, 2025

/ *Jacob L. Peterson* /
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