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Paper: 16
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

NETLIST, INC.,
Patent Owner.

IPR2025-00001
Patent 11,386,024 B2

Before NORMAN H. BEAMER, SHEILA F. McSHANE,
and KARA L. SZPONDOWSKI, *Administrative Patent Judges.*

SZPONDOWSKI, *Administrative Patent Judge*.

ORDER
Denying Patent Owner's Motion to Seal
37 C.F.R. §§ 42.14, 42.54

I. INTRODUCTION

On February 20, 2025, Netlist, Inc. ("Patent Owner") filed a Motion to Seal in the above-listed proceeding. Paper 8 ("Motion" or "Mot."). Patent Owner seeks to seal Exhibits 2002 and 2005 and requests entry of the Board's Default Protective Order. *Id.* at 1. Petitioner timely filed an Opposition to the motion, and Patent Owner timely filed a Reply in support of the Motion. Paper 10 ("Opposition" or "Opp."); Paper 15 ("Reply").

For reasons set forth below, we determine that Patent Owner has not shown "good cause" for sealing Exhibits 2002 and 2005. 37 C.F.R. § 42.54(a). Accordingly, the Motion is *denied*.

II. THE "GOOD CAUSE" STANDARD

In an *inter partes* review, the moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). A party moving to seal must show "good cause" for the relief requested. 37 C.F.R. § 42.54(a). 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. 37 C.F.R. § 42.54; *see Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3 (PTAB Jan. 19, 2018) (informative). Unlike in district court, where a party routinely will determine whether a document is produced under the terms of a district court protective order, in an *inter partes* review, "the default rule is that all papers . . . are open and available for access by the public." *Garmin Int'l v. Cuozzo Speed Techs., LLC*, IPR2012-00001, Paper 34 at 2 (PTAB Mar. 14, 2013). Thus, to demonstrate "good cause," the moving party must demonstrate 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 4; *see also Corning Optical Communications RF, LLC, v. PPC Broadband, Inc.*, IPR2014-00440, Paper 46 at 2 (PTAB April 6, 2015) (requiring a demonstration that information is not "excessively redacted").

III. PATENT OWNER'S MOTION TO SEAL

In the Motion, Patent Owner argues that good cause exists to seal Exhibits 2002 and 2005. Motion 2–3. Patent Owner explains that "Exhibit 2002 comprises minutes of an invitation-only committee meeting of the JEDEC standards-setting organization," and "Exhibit 2005 is a PowerPoint presentation authored by JEDEC." *Id.* at 2. Patent Owner represents that the "exhibits contain information available only to individuals with valid JEDEC membership credentials," and "would not have been published or otherwise made publicly available outside of proper JEDEC membership authentication channels." *Id.* at 3. According to Patent Owner, "JEDEC treats these types of documents as restricted to its members and has requested they be filed under seal." *Id.*

In its Opposition, Petitioner contends that the Motion should be denied because Patent Owner "has failed to show that Exhibits 2002 and 2005 (same as Exhibits 1116 and 1117) should be treated as confidential under the *Argentum* standard for a motion to seal." Opposition 8. Petitioner maintains that JEDEC membership is available for a fee, which gives members access to documents and meetings for a given committee, and there is no evidence that JEDEC has denied any membership. *Id.* at 9–10 (citing Pet. 40); *see also id.* at 13 (asserting that one of ordinary skill "could easily join JEDEC to get copies of any documents they did not already

have"). Petitioner also argues that, "in *Argentum*, the Board denied a motion to seal 'Exhibits 2040–2058,' which were research papers available to 'members of the public who pay a fee,' similar to the JEDEC documents here." *Id.* at 10–11 (citing *Argentum* 5). Petitioner further contends that, in *Rambus Inc. v. Infineon Techs. AG*, 318 F.3d 1081, 1085 (Fed. Cir. 2003), the Federal Circuit

> found that JEDEC meeting minutes like Exhibit 2002/1116 are not confidential: "Minutes of the JEDEC meetings . . . [a]re available to members and nonmembers alike." *Rambus*, 318 F.3d at 1085. With respect to Exhibit 2005/1117, it is not marked confidential, and the Federal Circuit has already found that "there are no confidentiality agreements between individual [JEDEC] members." *Id.* at 1102 n.9.

Id. at 11 (emphasis omitted).

In its Reply, Patent Owner further argues that Exhibits 2002 and 2005 are confidential because they "contain information available only to individuals with valid JEDEC membership credentials, and . . . JEDEC membership is restricted to companies (not individuals) who manufacture semiconductor products or provide related services or equipment." Reply 2 (citing Prelim. Resp. 31–32). Patent Owner asserts that "the President of JEDEC requested in correspondence with Netlist that these type [sic] of documents be filed under seal," which "indisputably establishes that JEDEC treats the materials as confidential." *Id.* (citing Ex. 2007, 1–2). Patent Owner adds that "'professional and behavioral norms' can give rise to confidentiality." *Id.* at 2–3 (quoting *Cordis Corp. v. Boston Sci. Corp.*, 561 F.3d 1319, 1333–34 (Fed. Cir. 2009)).

Upon review of the parties' arguments and exhibits, we conclude that Patent Owner has not demonstrated good cause for treating Exhibits 2002 and 2005 as confidential. In particular, Patent Owner has not shown that the information in Exhibits 2002 and 2005 is "truly confidential." *Argentum* 4. To the extent that JEDEC membership may be required to access the information, Patent Owner has not set forth any evidence to show that JEDEC membership is particularly restrictive, requires more than merely paying a fee, or has any established confidentiality norms.

Patent Owner filed, as Exhibit 2007, a copy of email correspondence with JEDEC President John Kelly. In an email addressed to Mr. Kelly, Raymond Chan, Patent Owner's Vice President of Patents, wrote that "Netlist respectfully requests JEDEC's permission to submit as confidential exhibits . . . other JEDEC documents relating to subsequent edits to the contents of that Ballot prior to the eventual publication of JEDEC Standard No. 82-30 in October 2014," and "[t]hese other JEDEC documents are also attached for your reference." Ex. 2007, 1. Mr. Kelly responded that "[w]e request that the documents be treated with a similar level of confidentiality to the designation 'CONFIDENTIAL-ATTORNEYS' EYES ONLY' in federal court protective orders." *Id.*

Even assuming *arguendo* that the files referenced in Exhibit 2007 contain the same information as Exhibits 2002 and 2005[1], the correspondence shows merely a single instance in which JEDEC requested that specific documents were requested to be treated as confidential in a

[1] It is unclear what specific documents are being referenced in the email exchange (Ex. 2007), and there is no indication the files attached in Mr. Chan's email to Mr. Kelly are the same as Exhibits 2002 and 2005.

specific proceeding, and does not persuasively establish "professional and behavioral norms" giving rise to confidentiality. *Cordis*, 561 F.3d at 1333–34. Aside from the confidentiality markings added by Patent Owner, Exhibits 2002 and 2005 do not contain any indication that they are confidential or subject to any sort of restrictions. Moreover, even if we were to accept that the information contained in Exhibits 2002 and 2005 is "truly confidential," Patent Owner does not allege that any concrete harm would result in the event of disclosure of the information. *Argentum* 4. Patent Owner also has not persuaded us that the interest in maintaining confidentiality of Exhibits 2002 and 2005 in this proceeding outweighs the strong public interest in having an open record. *Id.* Thus, on balance, Patent Owner has not demonstrated good cause for sealing Exhibits 2002 and 2005. Because Patent Owner has not demonstrated good cause for sealing Exhibits 2002 and 2005, we also deny without prejudice the request for entry of the Default Protective Order.

IV. ORDER

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's Motion to Seal Exhibits 2002 and 2005 (Paper 8) is *denied*; and

FURTHER ORDERED that Patent Owner's request for entry of the Default Protective Order is *denied without prejudice.*

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