

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**INTEGRATED DNA TECHNOLOGIES, INC.,**  
Petitioner,

v.

**TECAN GENOMICS, INC.,**  
Patent Owner.

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IPR2025-00016

U.S. Patent No. 10,876,108

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**PATENT OWNER'S MOTION TO SEAL  
CONFIDENTIAL INFORMATION SUBMITTED *IN CAMERA*  
PURSUANT TO THE BOARD'S SEPTEMBER 19, 2025 ORDER**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Tecan respectfully moves to seal and limit access to the following exhibits to the Board and Tecan only:

| <b>Exhibit</b>                                                        | <b>Description</b>                                                                                                                    |
|-----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| EX2200-EX2234;<br>EX2267-EX2268;<br>EX2270; EX2275-<br>EX2278; EX2284 | Correspondence between Tecan and Dr. Matz                                                                                             |
| EX2235                                                                | Correspondence between Tecan, Dr. Matz, and Dr. Meyer                                                                                 |
| EX2236-EX2266;<br>EX2269; EX2271-<br>EX2274; EX2279-<br>EX2283        | Correspondence between Tecan and Dr. Meyer                                                                                            |
| EX2285                                                                | Declaration of Timothy J. Beavers reflecting the timeline of correspondence submitted in compliance with the Board's order (Paper 31) |

## I. FACTUAL BACKGROUND

On September 19, 2025, in connection with Tecan's request to substitute Dr. Meyer for Dr. Matz, the Board ordered Tecan to submit for *in camera* review all correspondence since July 22 between Tecan and Dr. Matz, Tecan and Dr. Meyer, and Dr. Matz and Dr. Meyer, as well as a declaration attesting that all known correspondence had been submitted. Paper 31. On September 26, 2025, Tecan submitted for *in camera* review all required correspondence (EX2200-EX2284) and an attorney declaration (EX2285) providing a detailed timeline and summary of any known communications between Patent Owner, Dr. Matz, and Dr. Meyer from July 22, 2025, through September 24, 2025.<sup>1</sup> These documents contain or reflect privileged and confidential communications between Tecan and its retained witnesses. These documents also reflect privileged attorney work product as the documents contain litigation insight, attorney mental impressions, and draft reports.

On October 7, 2025, the Board granted Tecan's request to substitute. Paper 37. The Board further ordered Tecan to file this motion to seal the exhibits it submitted for *in camera* review in connection with Tecan's request for substitution. *Id.*

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<sup>1</sup> Tecan also submitted a separate attorney declaration from Linnea P. Cipriano. Paper 33. This declaration did not contain privileged or confidential information.

## II. LEGAL STANDARD AND ARGUMENT

The Board has authority to seal documents containing confidential information upon an adequate showing of good cause by the movant. 37 C.F.R. § 42.54. To meet this burden, the movant must establish four elements: (1) the material is genuinely confidential in nature, (2) disclosure to the public would cause identifiable harm, (3) the specific confidential material was necessary for use in the proceeding, and (4) the confidentiality interest outweighs the public's substantial interest in access to the record when weighed against each other. *Argentum Pharms. LLC v. Alicon Rsch., Ltd.*, IPR2017-01053, Paper 27, at 4 (PTAB Jan. 19, 2018). Tecan satisfies all four *Argentum* requirements.

*I. The information is genuinely confidential.* The documents submitted for *in camera* review are privileged and confidential communications involving Tecan's counsel and Drs. Matz and Meyer. They contain attorney work product, draft reports, litigation strategy, and communications that were had in confidence and maintained confidentially by counsel for Tecan. Such documents are privileged and are entitled to confidentiality. *See In re EchoStar Comms. Corp.*, 448 F.3d 1294, 1301 (Fed. Cir. 2006) ("work-product immunity protects documents and tangible things, such as memorandums, letters, and e-mails"); *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 26, at 13 (PTAB Mar. 5, 2013) (recognizing that the disclosure of a "party's litigation positions and the underlying basis for those

positions” outside of the established rules “is not necessary in the interest of justice”); *Galderma S.A. v. Medy-Tox, Inc.*, PGR2019-00062, Paper 56, at 10 (PTAB Feb. 11, 2021) (recognizing that communications between attorneys and retained experts can be confidential); Fed. R. Civ. P. 26(b)(4)(C) (2010 Advisory Committee Notes) (explaining that drafts of expert reports or disclosures, any supplements thereof, and attorney-expert communications are protected work product; requiring courts to “protect against disclosure of the attorney’s mental impressions, conclusions, opinions, or legal theories”).

II. Public disclosure would result in concrete harm to Patent Owner. Public disclosure of the confidential information contained in the documents submitted *in camera* would reveal substantive discussions between Tecan’s counsel and Drs. Matz and Meyer relating to the issues in these proceedings. Disclosing such substantive communications to Petitioner would unfairly grant a window into Tecan’s litigation strategy on this matter and force Tecan to disclose “its positions on substantive issues before [Tecan was] ready to present them in this review.” *See Garmin*, IPR2012-00001, Paper 26, at 13; *Hickman v. Taylor*, 329 U.S. 495, 506 (1947). Furthermore, in any future disputes involving related subject matter, adverse parties to Tecan would gain similar insight into Tecan’s litigation strategy. *See, e.g., LaRocca v. State Farm Mut. Auto. Ins. Co.*, 47 F.R.D. 278, 282 (W.D. Penn. 1969)

(“The rationale of the protection of an attorney’s work product . . . is applicable to closed cases as well as pending cases.”).

III. Tecan needed to rely on the confidential information. On September 19, 2025, the Board ordered Tecan to produce the *in camera* confidential materials. Paper 31. Tecan needed to file the documents to comply with that order.

IV. The balance of equities supports sealing. Tecan engaged with Drs. Matz and Meyer with the expectation that their conversations would be privileged and confidential. The Board ordered that Tecan provide these documents for *in camera* review as part of its consideration of Tecan’s request to allow the substitution of Dr. Meyer. Paper 31 at 7-8. Sealing these documents would uphold the fundamental protections of attorney-client privilege and work product doctrine, as well as the reasonable expectation that privileged communications between counsel and retained experts remain confidential. *See, e.g., Galderma*, PGR2019-00062, Paper 49, at 8 (citing *Wang Labs., Inc. v. Toshiba Corp.*, 762 F. Supp. 1246, 1249 (E.D. Va. 1991) (“While the value of the disclosures is debatable, their essential work-product nature is not. No experienced litigator would freely disclose these materials to opposing counsel.”)). Maintaining the *in camera* nature of these documents appropriately balances transparency with protection of privileges.

### **III. CONCLUSION**

For the foregoing reasons, Tecan respectfully moves to seal its exhibits filed on September 26, 2025 (EX2200-EX2285) and limit access to these exhibits to the Board and Tecan only.

Date: October 16, 2025

/Linnea P. Cipriano/  
Linnea P. Cipriano (Reg. No. 67,729)  
GOODWIN PROCTER LLP  
620 Eighth Avenue  
New York, NY 10018  
lcipriano@goodwinlaw.com

*Lead Counsel for Patent Owner Tecan  
Genomics, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **PATENT OWNER'S MOTION TO SEAL CONFIDENTIAL INFORMATION SUBMITTED *IN CAMERA* PURSUANT TO THE BOARD'S SEPTEMBER 19, 2025 ORDER** was served on October 16, 2025 via email to Petitioner by serving the correspondence addresses of record as follows:

|                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Lead Counsel:</b><br><b>Thomas S. Fletcher</b><br><b>(Reg. No. 72,383)</b><br>IDT-Tecan-IPRs@wc.com<br>WILLIAMS & CONNOLLY LLP<br>680 Maine Avenue SW<br>Washington, DC 20024<br>Phone: (202) 434-5497<br>Fax: (202) 434-5029    | <b>Backup Counsel:</b><br><b>Jessamyn S. Berniker</b><br><b>(Reg. No. 72,328)</b><br>IDT-Tecan-IPRs@wc.com<br>WILLIAMS & CONNOLLY LLP<br>680 Maine Avenue SW<br>Washington, DC 20024<br>Phone: (202) 434-5497<br>Fax: (202) 434-5029 |
| <b>Backup Counsel:</b><br><b>Kevin Hoagland-Hanson</b><br><b>(Pro Hac Vice)</b><br>IDT-Tecan-IPRs@wc.com<br>WILLIAMS & CONNOLLY LLP<br>680 Maine Avenue SW<br>Washington, DC 20024<br>Phone: (202) 434-5497<br>Fax: (202) 434-5029  | <b>Backup Counsel:</b><br><b>Patrick Hynds</b><br><b>(Pro Hac Vice)</b><br>IDT-Tecan-IPRs@wc.com<br>WILLIAMS & CONNOLLY LLP<br>680 Maine Avenue SW<br>Washington, DC 20024<br>Phone: (202) 434-5497<br>Fax: (202) 434-5029           |
| <b>Backup Counsel:</b><br><b>Nicholas G. Vincent</b><br><b>(Reg. No. 79,788)</b><br>IDT-Tecan-IPRs@wc.com<br>WILLIAMS & CONNOLLY LLP<br>680 Maine Avenue SW<br>Washington, DC 20024<br>Phone: (202) 434-5497<br>Fax: (202) 434-5029 | <b>Backup Counsel:</b><br><b>Anna Searle</b><br><b>(Pro Hac Vice)</b><br>IDT-Tecan-IPRs@wc.com<br>WILLIAMS & CONNOLLY LLP<br>680 Maine Avenue SW<br>Washington, DC 20024<br>Phone: (202) 434-5497<br>Fax: (202) 434-5029             |

October 16, 2025

/Linnea P. Cipriano/

Linnea P. Cipriano

(Reg. No. 67,729)

GOODWIN PROCTER LLP

620 Eighth Avenue

New York, NY 10018

Phone: (212) 813-8800

Fax: (212) 937-2204

lcipriano@goodwinlaw.com

*Counsel for Patent Owner Tecan  
Genomics, Inc.*