

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC.,
AMAZON.COM SERVICES LLC,
AMAZON WEB SERVICES, INC., and
TWITCH INTERACTIVE, INC.,
Petitioner,

v.

NL GIKEN INC.,
Patent Owner.

IPR2025-00050
Patent 10,880,592 B2

Before MICHELLE N. WORMMEESTER, KEVIN C. TROCK, and
IFTIKHAR AHMED, *Administrative Patent Judges*.

AHMED, *Administrative Patent Judge*.

ORDER

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

Amazon.com Inc., Amazon.com Services LLC, Amazon Web Services, Inc., and Twitch Interactive, Inc. (collectively, “Petitioner”) filed a Motion to Seal and for Entry of the Default Protective Order (Paper 4, “Mot.”). In its Motion, Petitioner requests that portions of Exhibit 1006 be sealed because they contain sensitive, nonpublic information. Mot. 1. 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 7. NL Giken Inc. (“Patent Owner”) has not filed an opposition to the motion. Petitioner represents that “Patent Owner does not oppose Petitioner’s Motion to Seal and has agreed to entry of the Default Protective Order.” *Id.* at 2.

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.

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

Argentum Pharms. LLC v. Alcon Research, Ltd., IPR2017-01053, Paper 27 at 4 (PTAB Jan. 19, 2018) (informative). A protective order may be entered for good cause by the Board to protect a party from disclosing confidential information. 37 C.F.R. § 42.54(a).

Petitioner contends that Exhibit 1006 is a copy of infringement contentions served on Petitioner under a protective order in an ongoing District Court proceeding between the Petitioner and Patent Owner, and that those infringement contentions include confidential proprietary and confidential business information of Petitioner. Mot. 4 (citing *NL Giken Inc. v. Amazon.com, Inc.*, No. 1:24-cv-00028, (D. Del.)). Applying the factors laid out in *Argentum Pharms.*, Petitioner contends that good cause exists to grant the motion to seal. *Id.* (citing *Argentum Pharms. LLC*, IPR2017-01053, Paper 27 at 4). Petitioner contends that the information it seeks to seal is truly proprietary and confidential, and involves Petitioner's accused product as well as how Petitioner's accused product is alleged to infringe the claims of U.S. Patent No. 10,880,592 B2 ("the '592 patent"). *Id.* at 4–5. According to Petitioner, disclosure of the confidential information would expose Petitioner's confidential information to third parties and may jeopardize Petitioner's contractual arrangements with its customers. *Id.* at 5. Petitioner also asserts that the information that is sought to be sealed is entirely unrelated to the patentability of the '592 patent. *Id.* Lastly, Petitioner contends that public interest in having access to this confidential information is minimal and outweighed by the interest in maintaining confidentiality. *Id.* at 6–7. Petitioner submits a redacted version of the Exhibit 1006. *Id.* at App'x A.

We have considered Petitioner’s contentions and are persuaded that Petitioner has shown good cause for maintaining Exhibit 1006 under seal. Accordingly, we *grant* Petitioner’s Motion to Seal and for Entry of the Default Protective Order (Paper 4). 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 at App’x B.

ORDER

It is, therefore,

ORDERED that Petitioner’s Motion to Seal and for Entry of the Default Protective Order (Paper 4) is *granted*; and

FURTHER ORDERED that this matter shall be governed by the Default Protective Order set forth in the TPG, and Petitioner’s confidential information shall be considered designated “PROTECTIVE ORDER MATERIAL” under that Order.

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