

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SINCLAIR PHARMA LIMITED, SINCLAIR PHARMA US, INC., VIORA,
INC., EMA AESTHETICS, LTD., AND AESTHETIC MANAGEMENT
PARTNERS, LLC AND AESTHETIC MANAGEMENT PARTNERS, INC.,
Petitioners,

v.

HYDRAFACIAL LLC,
Patent Owner.

Case No. IPR2025-00145

Patent No. 11,865,287

PATENT OWNER'S MOTION TO EXPUNGE

I. INTRODUCTION

With the Board's authorization, and pursuant to 37 C.F.R. § 42.56, the Director's Order Vacating the Decision Granting Institution and Denying Institution (Paper 41), and the Director's Order Denying Request for Rehearing (Paper 46), Patent Owner HydraFacial LLC ("HydraFacial") requests that the Board expunge HydraFacial's confidential exhibits (sealed Exhibits 2003, 2004, 2009, 2010, 2099, 2100, 2113, 2114, 2141, and 2145) and unredacted POR (sealed Paper 23) submitted in this proceeding. HydraFacial also requests that the Board expunge Petitioners' confidential exhibits (sealed Exhibits 1044, 1085, 1086, 1094, and 1096) and unredacted Reply (sealed Paper 39). Paper 41 vacated the Board's Institution Decision, denied the Petition, and ordered that no trial is instituted. Petitioners requested rehearing of Paper 41, and the Director denied that request in Paper 46. The denial of institution is therefore final, and this Motion is timely filed within 45 days of Paper 46.

HydraFacial filed an unopposed Motion to Seal and for Entry of a Protective Order (Paper 22), together with a proposed Modified Protective Order (Ex. 2024) and a redline to the Default Protective Order (Ex. 2025). Paper 22 explained that the sealed POR and sealed Exhibits 2003, 2009, 2010, 2141, and 2145 contain HydraFacial's confidential financial and market data, and that sealed Exhibits 2004, 2099, 2100, 2113, and 2114 contain HydraFacial's confidential proprietary technical

information. Paper 22 at 3-10. Paper 22 also explained that HydraFacial filed public redacted versions of the POR and Exhibits 2003, 2004, and 2009. *Id.* at 3. The confidential materials have remained non-public under seal or provisional seal, and HydraFacial continues to maintain the strict confidentiality of those materials.

Petitioners' sealed Exhibits 1044, 1085, 1086, 1094, and 1096 and sealed Reply contain and discuss the same categories of HydraFacial confidential financial, market, and proprietary technical information. Petitioners did not oppose HydraFacial's Motion to Seal and for Entry of a Protective Order.

Documents Filed as Confidential That Should Be Expunged From the Record

Sealed Exhibit 2145 is a confidential market research report related to sales of HydraFacial's products. HydraFacial maintains the strict confidentiality of the information contained in sealed Exhibit 2145.

Sealed Exhibit 2141 is a document summarizing confidential sales data related to HydraFacial's Tower, Allegro, Nectre, and other products. HydraFacial maintains the strict confidentiality of the information contained in sealed Exhibit 2141.

Sealed Exhibit 2114 is a confidential design schematic for HydraFacial's Syndeo product. The exhibit includes confidential and proprietary technical information including product design documentation, technical specifications and

other materials pertaining to HydraFacial's Syndeo product. HydraFacial maintains the strict confidentiality of the information contained in sealed Exhibit 2114.

Sealed Exhibit 2113 is a confidential engineering report document for HydraFacial's Syndeo product. The exhibit includes confidential and proprietary technical information including product design documentation, technical specifications and other materials pertaining to HydraFacial's Syndeo product. HydraFacial maintains the strict confidentiality of the information contained in sealed Exhibit 2113.

Sealed Exhibit 2100 is an internal HydraFacial document summarizing confidential design aspects and plans for HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products. The exhibit includes confidential and proprietary technical information including technical specifications and other materials pertaining to HydraFacial's Syndeo, Elite, and Allegro products. HydraFacial maintains the strict confidentiality of the information contained in sealed Exhibit 2100.

Sealed Exhibit 2099 is a confidential Design History File for HydraFacial's Elite products. The exhibit includes confidential and proprietary technical information including product design documents, technical specifications, and other materials pertaining to HydraFacial's Elite Products. HydraFacial maintains the strict confidentiality of the information contained in sealed Exhibit 2099.

Sealed Exhibit 2010 is a 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. Paragraph 9 summarizes confidential market information contained in Exhibit 2145. 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.

Sealed Exhibit 2004 is the Second Declaration of Karl Leinsing, HydraFacial's technical expert for this IPR. The exhibit includes confidential and proprietary technical information including product design documents, technical specifications, and other materials pertaining to HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products. HydraFacial has filed a confidential version of Exhibit 2004 and a public version of Exhibit 2004 with HydraFacial's confidential and proprietary technical information redacted.

Sealed Exhibit 2003 is the Declaration of Pallavi Seth, HydraFacial's economic expert for this IPR. This exhibit summarizes confidential financial data related to global sales (revenue and units sold) for HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products. HydraFacial has filed a confidential version of Exhibit 2003 and a public version of Exhibit 2003 with the references to HydraFacial's confidential sales data redacted.

The POR itself references the confidential financial and market data contained in Exhibit 2010 and Exhibit 2145 and summarized in Exhibit 2009, and contained in Exhibit 2010, Exhibit 2141, and Exhibit 2145 and summarized in Exhibit 2003. HydraFacial has filed a confidential version of the POR (Paper 23) and a public version of the POR (Paper 24) with the references to HydraFacial's confidential sales data redacted.

Sealed Exhibit 1096 is the errata for the deposition of Pallavi Seth, HydraFacial's economic expert for this IPR. This exhibit contains deposition testimony relating to confidential financial data related to global sales (revenue and units sold) for HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products.

Sealed Exhibit 1094 is the Declaration of Jeffrey A. Stec, Petitioners' economic expert for this IPR. This exhibit discusses confidential financial data related to global sales (revenue and units sold) for HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products.

Sealed Exhibit 1086 is the transcript of the deposition of Vipul Savsani, HydraFacial's Global Vice President of Financial Planning and Analysis. This exhibit contains deposition testimony relating to confidential financial data contained in sealed Exhibits 2009, 2010, and 2145.

Sealed Exhibit 1085 is the transcript of the deposition of Pallavi Seth, HydraFacial's economic expert for this IPR. This exhibit contains deposition testimony relating to confidential financial data related to global sales (revenue and units sold) for HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products.

Sealed Exhibit 1044 is the transcript of the deposition of Karl Leinsing, HydraFacial's technical expert for this IPR. The exhibit includes testimony relating to confidential and proprietary technical information including product design documents, technical specifications, and other materials pertaining to HydraFacial's Tower, Allegro, Elite, Syndeo, and Nectre products.

Petitioners' Reply (Paper 39) references and discusses HydraFacial's confidential financial, market, and proprietary technical information reflected in the sealed exhibits discussed above, including sealed Exhibits 1044, 1085, 1086, 1094, and 1096 and confidential information from HydraFacial's sealed exhibits. Petitioners did not file a public redacted version of the Reply. The Director initiated sua sponte Director Review and stayed this proceeding just days after Petitioners filed the Reply. Paper 40. The Director then vacated the Institution Decision, denied

the Petition, and ordered that no trial is instituted. Paper 41. Accordingly, expungement of the sealed Reply will not impair the public's ability to understand the basis on which this proceeding was terminated.

None of these confidential financial, market, or technical information contained in the sealed exhibits, sealed POR, sealed Reply, or redacted portions of the public POR and public versions of Exhibits 2003, 2004, and 2009 have been made public. Nor was any such confidential information cited, discussed, relied upon, or relevant to the Board's Institution Decision (Paper 12), the Director's Order Vacating the Institution Decision and Denying Institution (Paper 41), or the Director's Order Denying Request for Rehearing (Paper 46).

**II. THE BOARD SHOULD EXPUNGE THE PARTIES'
CONFIDENTIAL EXHIBITS AND UNREDACTED POR AND
REPLY**

HydraFacial requests expungement under 37 C.F.R. § 42.56 of HydraFacial's sealed exhibits, Petitioners' sealed exhibits, the sealed POR (Paper 23), and the sealed Reply (Paper 39). These sealed exhibits and sealed papers contain HydraFacial's highly confidential business, market, financial, and technical information, disclosure of which would harm HydraFacial for the reasons set forth in HydraFacial's Motion to Seal and for Entry of a Protective Order (Paper 22). The Director's Order Vacating the Decision Granting Institution and Denying Institution (Paper 41) vacated the Board's Institution Decision, denied the Petition, and ordered

that no trial is instituted; Director’s Order Denying Request for Rehearing (Paper 46) denied Petitioners’ Request for Rehearing. This Motion is timely because it is filed within 45 days of the Director’s Order Denying Request for Rehearing (Paper 46). *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.” The Trial Practice Guide similarly explains that confidential information subject to a protective order ordinarily becomes public 45 days after denial of a petition to institute a trial or 45 days after final judgment, but that “[a] party seeking to maintain the confidentiality of information . . . 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 [the movant’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, the materials HydraFacial seeks to expunge contain

highly confidential financial, market, and proprietary technical information. HydraFacial filed Paper 22 to seal HydraFacial's confidential exhibits and the confidential POR, and those materials have remained non-public under seal or provisional seal. Petitioners likewise filed Exhibits 1044, 1085, 1086, 1094, and 1096 and the Reply under confidential designations, and those materials have remained non-public. The confidential information was not cited, discussed, relied upon, or relevant to the vacated Institution Decision (Paper 12), the Order Denying Director Review of Institution Decision (Paper 20), the Director's Order Vacating the Institution Decision and Denying Institution (Paper 41), or the Director's Order Denying Request for Rehearing (Paper 46). Moreover, disclosure of this information would cause HydraFacial significant competitive harm.

Second, the public record will remain complete and understandable after expungement. HydraFacial filed public redacted versions of the POR and Exhibits 2003, 2004, and 2009, and the redactions are narrowly tailored to remove only confidential financial, market, and technical information. For example, HydraFacial's public POR redacts only the portions of eight pages that discuss confidential financial data and proprietary technical information supporting

secondary considerations.¹ Petitioners did not file a public redacted Reply, but the Director initiated sua sponte Director Review and stayed this proceeding shortly after the Reply was filed. Paper 40. In any event, the proceeding was terminated by Paper 41 based on the ITC adjudication and the risk of duplication, expense, and inconsistent decisions, not on any confidential information in the Reply. Paper 41 at 2. Thus, the public can understand the complete history and basis for termination of this IPR without access to HydraFacial's confidential information. In the alternative, to the extent the Board determines that a public version of Petitioners' Reply is necessary to maintain a complete and understandable record, HydraFacial respectfully requests that the Board direct Petitioners to file a narrowly redacted public version of Paper 39 that excludes HydraFacial's confidential information, and thereafter expunge sealed Paper 39.

For these reasons, good cause exists to expunge sealed Exhibits 1044, 1085, 1086, 1094, 1096, 2003, 2004, 2009, 2010, 2099, 2100, 2113, 2114, 2141, and 2145, as well as sealed Papers 23 and 39.

¹ The redactions are on pages 1 and 75-81 and relate only to confidential financial data and proprietary technical information supporting secondary considerations.

III. CONCLUSION

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

Respectfully Submitted,

Dated: June 1, 2026

/ 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 June 1, 2026, a copy of this **PATENT OWNER'S MOTION TO EXPUNGE** was served via the email correspondence address of record for Petitioners' counsel of record:

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Respectfully Submitted,

Dated: June 1, 2026

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