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Date: September 19, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KUBOTA NORTH AMERICA CORPORATION,
Petitioner,

v.

VERMEER MANUFACTURING COMPANY,
Patent Owner.

IPR2025-00167 to -00169 (Patent 9,321,386 B1)
IPR2025-00170 (Patent 9,975,750 B2)
IPR2025-00171 (Patent 10,202,266 B2)¹

Before MEREDITH C. PETRAVICK, ANNETTE R. REIMERS, and
ERIC C. JESCHKE, *Administrative Patent Judges*.

JESCHKE, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Unopposed Motion for Entry
of the Default Protective Order and
Granting Patent Owner's Motion to Seal
37 C.F.R. §§ 42.14, 42.54

¹ This Order addresses issues that are the same in each of the above-listed proceedings. We issue one Order to be filed in each proceeding. The parties are not authorized to use this caption in any subsequent papers, unless specifically authorized by the Board.

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I. BACKGROUND

Patent Owner, Vermeer Manufacturing Company, timely filed its Patent Owner's Responses along with exhibits in support. *See* Paper 22 (confidential Patent Owner's Response); Paper 23 (redacted public Patent Owner's Response); Paper 28 (granting motion to excuse late filings).² With the filing of its Responses, Patent Owner filed the pending Motions to Seal and to Enter the Default Protective Order in each proceeding. *See* Paper 24 ("Motion" or "Mot."). Petitioner does not oppose the Motions. *See* Mot. 2. For the reasons below, we *grant* Patent Owner's Motions.

II. DISCUSSION

A. Motions for Entry of the Default Protective Order

In the Motions, Patent Owner requests entry of the Default Protective Order, which is provided in the Board's Consolidated Trial Practice Guide. Mot. 6 (discussing Ex. 2038 (filed copy)); *see* Consolidated Trial Practice Guide (Nov. 2019), <https://www.uspto.gov/TrialPracticeGuideConsolidated> ("TPG") at 117–122. We *grant* the request and *enter* the Default Protective Order in these proceedings.

B. Motions to Seal

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

² Similar papers were filed in each proceeding. We cite to papers in IPR2025-00167 only.

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seal reflects the strong public policy for making all information in an *inter partes* review open to the public. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3 (PTAB Jan. 19, 2018) (informative). When assessing if the good cause standard has been met, we may consider whether (1) the information at issue is confidential, (2) 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) the interest in maintaining confidentiality as to the information outweighs the strong public interest in an open record. *Id.* at 4.

1. Exhibit 2016 and Exhibit 2027

Exhibit 2027 in each proceeding is an internal 131-page document originally produced by Petitioner, which relates to Petitioner's product development.³ *See* Mot. 4. Patent Owner filed Exhibit 2027 as "Parties and Board" only with no redacted public version. Exhibit 2016 is a declaration of Patent Owner's expert, Dr. Mark Fleming. *See id.* In certain paragraphs of the Declaration, Dr. Fleming refers to and summarizes information from

³ As acknowledged in the Motion, this document is from Petitioner. Mot. 4 ("Exhibit 2027 is [Petitioner's] Confidential Document Production."). Although we address Patent Owner's Motion in this instance, the parties should be aware that in these proceedings (and most Board proceedings), the Scheduling Orders state: "It is the responsibility of the party whose confidential information is at issue, not necessarily the proffering party, to file the motion to seal." Paper 18 at 3; *see also* TPG at 111 ("[I]f the information has been designated as confidential by the opposing party, *that party* shall set forth the reasons why the information redacted is confidential and should not be made publicly available." (emphasis added)). Future motions to seal should follow that guidance.

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Exhibit 2027. *See, e.g.*, Ex. 2016 ¶ 197; *see also* Mot. 4 (arguing same). Patent Owner filed a confidential version of Exhibit 2016 and a public version of Exhibit 2016 with certain passages redacted. *See* Ex. 2016, pages 86–93. Patent Owner argues why good cause exists to retain under seal the presently confidential business-sensitive and competitive research information. *See* Mot. 4–5.

Given the subject matter of the information in these exhibits, and in view of the lack of objection from Petitioner, we determine that the redacted or sealed information is truly confidential, that at least one party would be harmed by not sealing the information, that at least one party has a need to rely on this information at trial, and that the interest in maintaining the information as confidential outweighs the public interest in having the information unsealed. Accordingly, we conclude that good cause exists to retain the redacted portions of Exhibit 2016, as well as the confidential versions of Exhibits 2016 and 2027, under seal.

2. Patent Owner's Responses

As noted above, Patent Owner filed in each proceeding a confidential version (Paper 22) and a redacted, public version (Paper 23) of its Response. Patent Owner contends that the redacted portions of the public versions of the Responses “quote and characterize the documents contained in Exhibit 2027” (discussed in the prior section). *See* Mot. 3–4.

Given the subject matter of the information redacted in the public versions of the Responses, and in view of the lack of objection from Petitioner, we determine that the redacted information is truly confidential, that at least one party would be harmed by not sealing the information, that

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at least one party has a need to rely on this information at trial, and that the interest in maintaining the information as confidential outweighs the public interest in having the information unsealed. Accordingly, we conclude that good cause exists to retain the redacted portions of the Patent Owner's Responses, as well as the confidential versions, under seal.

III. CONCLUSION

For the reasons above, we grant Patent Owner's Motion to Seal and to Enter the Default Protective Order. We remind the parties, however, of the public's interest in maintaining a complete and understandable file history, and of the general expectation that information will be made public when a final written decision indicates that the information exists. *See* TPG at 19–22. We also note that confidential information subject to a protective order ordinarily becomes public 45 days after final judgment in a trial. *See id.* at 21–22. After final judgment, a party may file a motion to expunge confidential information from the record prior to the information becoming public.⁴ *See id.* at 22 (citing 37 C.F.R. § 42.56).

⁴ The confidential documents filed in these proceedings will remain under seal at least until the time for filing a notice of appeal has expired or, if an appeal is taken, the appeal process has concluded. The records for these proceedings will be preserved in their entirety, and the confidential documents will not be expunged or made public, during any appeal.

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It is hereby:

ORDERED that the Motions to Seal and for Entry of a Protective Order are *granted*;

FURTHER ORDERED that the Default Protective Order is hereby *entered* in each proceeding;

FURTHER ORDERED that the Default Protective Order shall govern the conduct of these proceedings unless otherwise modified by the Board;

FURTHER ORDERED that the redacted portions of the public versions of the Patent Owner's Responses and Exhibits 2016 are *maintained* under seal; and

FURTHER ORDERED the confidential versions of the Patent Owner's Responses and the confidential versions of Exhibits 2016 and 2027 are *maintained* under seal.

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