UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KUBOTA NORTH AMERICA CORPORATION,
Petitioner,

v.

VERMEER MANUFACTURING COMPANY,
Patent Owner.

IPR2025-00171
U.S. Patent No. 10,202,266

Filed: September 3, 2025

PATENT OWNER'S MOTION TO SEAL AND TO ENTER THE DEFAULT PROTECTIVE ORDER

Patent Owner Vermeer Manufacturing Company ("Vermeer") respectfully submits this Motion to Seal and to enter the Default Protective Order.

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Vermeer respectfully requests that the Board seal the Exhibits identified below, as well as the Patent Owner's Response (collectively "the Confidential Documents"). Vermeer further requests entry of the stipulated Default Protective Order as set forth in Appendix B of the Consolidated Trial Practice Guide as detailed in section V as well as Ex. 2038.[1]

The parties have conferred regarding the Motion to Seal, as required by 37 C.F.R. § 42.54(a), and the Petitioner Kubota North America Corporation ("Kubota") has stated it will not oppose this Motion.

The Exhibits that are the subject of this motion were produced to Vermeer by Kubota. Good cause to seal exists because Kubota has represented to Vermeer that the Exhibits reflect trade secret or other confidential research, development, or commercial information by designating such materials as "PROTECTIVE ORDER MATERIAL." Vermeer therefore submits this Motion to Seal and for entry of the stipulated Default Protective Order in this case.

[1] The only changes between the Default Protective Order and Ex. 2038 are to reflect the appropriate case caption.

II. GOVERNING RULES AND PTAB GUIDANCE

While under 35 U.S.C. § 316(a)(1), papers filed in an *inter partes* review are generally open and available for access by the public, a party may file a concurrent Motion to Seal to protect public disclosure of certain confidential information, which has the effect of sealing the information at issue pending resolution of the motion. In determining whether to grant a Motion to Seal, the Board must find "good cause," 37 C.F.R. § 42.54(a), and "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." Consolidated Trial Practice Guide ("TPG") at 19 (Nov. 2019). The Board identifies confidential information "in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information." *Id.*

Based on the procedure set forth in the TPG, Vermeer seeks to prevent the disclosure of sensitive information that Kubota has represented is contained in the Confidential Documents.

III. IDENTIFICATION OF CONFIDENTIAL DOCUMENTS

The Confidential Documents at issue here comprise Exhibit 2027, as well as Exhibit 2016 and Vermeer's Response, each of which quote and characterize the documents contained in Exhibit 2027.

Exhibit 2027 is Kubota's Confidential Document Production. The parties' stipulated to the Default Protective Order, and Kubota's subsequent production of documents was made with the corresponding "PROTECTIVE ORDER MATERIAL" designation. When the parties' conferred, Kubota confirmed that the Confidential Documents are appropriately designated for filing under seal. Under the terms of the stipulated Default Protective Order, filed concurrently herewith, documents so designated must be filed under seal. Ex. 2038, ¶ 5(B).

Exhibit 2016 is the declaration of Mark Fleming. Exhibit 2016 cites to the Confidential Documents contained in Exhibit 2027, which Vermeer submits herein should be sealed in its entirety.

Vermeer has, to the best of its ability, limited material in its Response to non-confidential information. However, it nonetheless is necessary for the Response to quote and characterize Exhibits 2016 and 2027.

IV. GOOD CAUSE EXISTS FOR SEALING THE CONFIDENTIAL INFORMATION

The standard for granting a motion to seal is "good cause." *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 34 at 3 (P.T.A.B. Mar. 14, 2013). This requires the Board 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." *Garmin Int'l, Inc. v. Cuozzo Speed Techs.*

LLC, IPR2012-00001, Paper 36 at 4 (P.T.A.B. Mar. 14, 2013). Confidential information in IPR proceedings is identified "in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information." TPG at 19. In particular, the Board will protect confidential information after balancing "the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." *Id.* at 19.

In accordance with the rules and procedures, Vermeer moves to seal above Exhibit 2027 in its entirety, as it includes information Kubota has designated as "PROTECTIVE ORDER MATERIAL" under the stipulated Default Protective Order, and good cause exists to seal the Exhibits.

Vermeer further moves to seal in part Exhibit 2016, as well as Vermeer's Response, as they contain excerpts of Exhibit 2027, and Kubota has designated the entire contents of such exhibit as containing "PROTECTIVE ORDER MATERIAL" under the proposed stipulated Protective Order in this proceeding (Ex. 2038). Submitted herewith are partially-redacted, public versions of Exhibit 2016 and of Vermeer's Response.

To the best of Vermeer's knowledge, and based on Kubota's representation that the Confidential Documents and the information contained therein are indeed

confidential, the information sought to be sealed has not been published or otherwise made public.

V. PROPOSED PROTECTIVE ORDER

With this Motion to Seal, Vermeer respectfully requests that the Board enter the stipulated Default Protective Order (Ex. 2038). Vermeer respectfully submits that the Protective Order is consistent with the integrity and efficient administration of the proceeding, and consistent with the default protective order found in Appendix B of the Consolidated Trial Practice Guide.

Good cause exists to enter the proposed Protective Order.

VI. RELIEF REQUESTED

For the reasons stated above, Vermeer requests that the Board protect the Confidential Documents by entering the stipulated Default Protective Order, and seal the Confidential Documents according to the proposed stipulated Protective Order in this case.

VII. CONCLUSION

For the foregoing reasons, Vermeer respectfully requests that the Board seal Exhibit 2027, seal in part Exhibit 2016 and Patent Owner's Response, and enter the stipulated Default Protective Order.

Date: September 3, 2025 Respectfully submitted,

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CERTIFICATE OF SERVICE

Under 37 C.F.R. § 42.6(e), the undersigned certified that on September 3, 2025, a copy of Patent Owner's Motion to Seal and to Enter the stipulated Default Protective Order was served via electronic mail on the following attorneys of record:

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Dated: September 3, 2025

By: *___/Richard L. Brophy/___*
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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME REQUIREMENTS UNDER 37 C.F.R. § 42.24

Under 37 C.F.R. § 42.24(d), the undersigned certifies that the Patent Owner's Motion complies with the type-volume requirements of 37 C.F.R. § 42.24(a)(1)(v) because it is less than 15 pages, excluding the parts of the Response exempted by 37 C.F.R. § 42.24(a).

This Response also complies with the typeface requirements of 37 C.F.R. § 42.6(a)(2)(ii) and the type style requirements of 37 C.F.R. § 42.6(a)(2)(iii) and (iv).

Dated: September 3, 2025

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