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Paper 13
Date: June 24, 2025

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EUNSUNG GLOBAL CORP.,
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

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IPR2025-00445
Patent 9,550,052 B2

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Before ERIC C. JESCHKE, CYNTHIA M. HARDMAN, and JAMIE T. WISZ, *Administrative Patent Judges*.

JESCHKE, *Administrative Patent Judge*.

# ORDER
Granting Patent Owner's Unopposed Motion for Entry of a Modified Protective Order and Granting Patent Owner's Motion to Seal
*37 C.F.R. §§ 42.14, 42.54*

## BACKGROUND

On May 13, 2025, Patent Owner, HydraFacial LLC, filed its Preliminary Response along with exhibits in support. *See* Paper 10 (confidential Preliminary Response); Paper 11 (redacted public Preliminary Response). With the filing of its Preliminary Response, Patent Owner filed the pending Motion to Seal and for Entry of a Protective Order currently before us. *See* Paper 9 ("Motion" or "Mot."). Petitioner did not file an opposition to the Motion. *See* 37 C.F.R. § 42.25(a)(1) (2024) (setting the default time limit for an opposition at one month). For the reasons below, we *grant* Patent Owner's Motion.

## DISCUSSION

### *Motion for Entry of a Modified Protective Order*

In the Motion, Patent Owner summarizes the six proposed changes from the default protective order provided in the Board's Consolidated Trial Practice Guide to the currently proposed modified Protective Order. Mot. 6; *see* Consolidated Trial Practice Guide (Nov. 2019), https://www.uspto.gov/TrialPracticeGuideConsolidated ("TPG") at 117–122. Patent Owner contends that the changes are warranted to protect confidential business information from opposing parties' employees and in-house counsel. Mot. 6–7. According to Patent Owner, the changes would also align the protective order at the Board with that previously agreed to by the parties in an investigation at the International Trade Commission. *Id.* at 7–8. Patent Owner represents that Petitioner does not object to Patent Owner's proposed changes to the default protective order. *Id.* at 8.

Upon review of the Motion, we determine that Patent Owner has identified sufficiently how the proposed modified Protective Order departs

from the Board's default protective order. *See* Ex. 2024 (proposed modified Protective Order); Ex. 2025 (redline comparing the proposed modified Protective Order to the Board's default protective order); TPG 91 (sample scheduling order providing that "[i]f the parties choose to propose a protective order deviating from the default protective order, they must submit the proposed protective order jointly, along with a marked-up comparison of the proposed and default protective orders showing the differences between the two and explain why good cause exists to deviate from the default protective order").

As summarized by Patent Owner, the proposed modified Protective Order adds a designation for certain confidential documents, and further limits access to those documents. Mot. 6. Petitioner does not contest Patent Owner's assertion that the competitive nature of the relationship between the parties here warrants the proposed changes to the default protective order. Patent Owner has shown good cause for the proposed modifications from the Board's default protective order and that the proposed modified Protective Order is warranted.

*Motion 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 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 2009 and Exhibit 2010*

Exhibit 2010 is a pdf printout of a spreadsheet of financial information related to global sales (revenue and units sold) of certain of Patent Owner's products. *See* Mot. 3. Patent Owner filed Exhibit 2010 as "Parties and Board" only with no redacted public version. Exhibit 2009 is a Declaration provided by Mr. Vipul Savsani, Patent Owner's Global Vice President of Financial Planning and Analysis. *Id.* In certain passages of his Declaration, Mr. Savsani summarizes confidential financial data contained in Exhibit 2010. *See* Ex. 2010. Patent Owner filed a confidential version of Exhibit 2009 and a public version of Exhibit 2009 with the passages at issue redacted. *See id.* Patent Owner argues why good cause exists to retain the presently confidential information under seal. *See* Mot. 4–6.

Given the subject matter of the information sealed in these exhibits, and in view of the lack of objection from Petitioner, we determine that the redacted information is truly confidential, that Patent Owner 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 2009, as well as the confidential versions of Exhibits 2009 and 2010, under seal.

*2. Patent Owner's Preliminary Response*

As noted above, Patent Owner filed both a confidential version (Paper 10) and a redacted, public version (Paper 11) of its Preliminary Response. Patent Owner contends that the redacted portions of the public version of the Preliminary Response "reference[] the confidential financial data contained in Exhibit 2010 and summarized in Exhibit 2009" (discussed in the prior section). *See* Mot. 3–4.

Given the subject matter of the information redacted in the public versions, and in view of the lack of objection from Petitioner on the redactions, we determine that the redacted information is truly confidential, that Patent Owner 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 the Patent Owner Preliminary Response, as well as the confidential version of that filing, under seal.

## CONCLUSION

For the reasons above, we grant Patent Owner's Motion to Seal and for Entry of a 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 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.[1] *See id.* at 22 (citing 37 C.F.R. § 42.56).

It is hereby:

ORDERED that the Motion to Seal and for Entry of a Protective Order is *granted*;

FURTHER ORDERED that the modified Protective Order (Ex. 2024) submitted by Patent Owner is hereby *entered* in this proceeding;

FURTHER ORDERED that the modified Protective Order shall govern the conduct of this proceeding unless otherwise modified by the Board;

FURTHER ORDERED that the redacted portions of the public versions of the Preliminary Response (Paper 11) and Exhibit 2009 are *maintained* under seal; and

FURTHER ORDERED the confidential versions of the Preliminary Response (Paper 10) and the confidential versions of Exhibits 2009 and 2010 are *maintained* under seal.

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[1] 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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