

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EUNSUNG GLOBAL CORP.,
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

Case No. IPR2025-00445

Patent No. 9,550,052

JOINT MOTION TO EXPUNGE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.56, the Modified Protective Order (Ex. 2024), and the Board’s Decision titled Settlement Prior to Institution of Trial (Paper 24), Patent Owner HydraFacial LLC (“HydraFacial”) and Petitioner Eunsung Global Corp. (“Eunsung”) jointly request that the Board expunge the following documents that were submitted under seal in this proceeding:

- Confidential exhibits (sealed Exhibits 2009-2010, 2057-2063, and 2071-2072);
- Patent Owner’s unredacted POPR (sealed Paper 10);
- Patent Owner’s Motion to Terminate (sealed Paper 15); and
- Petitioner’s Opposition to Motion to Terminate (sealed Paper 19).

The parties’ sealed Exhibits 2009-2010, 2057-2063, and 2071-2072, unredacted POPR, Motion to Terminate, and Opposition to Motion to Terminate contain confidential information that the parties have designated as “CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER,” “CONFIDENTIAL BUSINESS INFORMATION,” or “PROTECTIVE ORDER MATERIAL” under the entered protective order. In particular, these documents disclose at least “information which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the production, sales, shipments, purchases, transfers, identification of customers, inventories, amount or

source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or other organization, or other information of commercial value, the disclosure of which is likely to have the effect of . . . (ii) causing substantial harm to the competitive position of the person, firm, partnership, corporation, or other organization from which the information was obtained.” Ex. 2024, ¶ 2.

Documents Filed as Confidential That Should Be Expunged From the Record

Sealed Exhibit 2010 is the 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. 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 2057 is the excerpt of a deposition transcript of Gabe Lubin, CEO of Cartessa, taken on October 31, 2024, in the 1408 ITC Investigation. In the

excerpt, Mr. Lubin discusses the business relationship between Eunsung and Cartessa. The transcript was designated as Confidential Business Information (CBI) by Cartessa under the ITC protective order. Cartessa's counsel in the 1408 ITC Investigation provided permission to HydraFacial's counsel to produce the excerpted deposition transcript in this IPR and requested that the transcript maintain its confidentiality designation and that it be filed under seal when submitted.

Sealed Exhibit 2058 is the distribution agreement between Cartessa and Eunsung. Eunsung produced this document as confidential pursuant to the protective order entered in this IPR because it includes confidential business agreements between Cartessa and Eunsung. HydraFacial applied the confidentiality stamp when filing the document.

Sealed Exhibit 2059 is the PDF printout of an email communication between an Eunsung representative and Gabe Lubin, CEO of Cartessa, dated July 22, 2022. Eunsung produced this document as confidential pursuant to the protective order entered in this IPR because it includes confidential business discussions between Cartessa and Eunsung. HydraFacial applied the confidentiality stamp when filing the document.

Sealed Exhibit 2060 is the PDF printout of an email communication between an Eunsung representative and Gabe Lubin, CEO of Cartessa, dated July 27, 2022. Eunsung produced this document as confidential pursuant to the protective order

entered in this IPR because it includes confidential business discussions between Cartessa and Eunsung. HydraFacial applied the confidentiality stamp when filing the document.

Sealed Exhibit 2061 is the PDF printout of an email communication between an Eunsung representative and Gabe Lubin, CEO of Cartessa, dated September 13, 2022. Eunsung produced this document as confidential pursuant to the protective order entered in this IPR because it includes confidential business discussions between Cartessa and Eunsung. HydraFacial applied the confidentiality stamp when filing the document.

Sealed Exhibit 2062 is the PDF printout of an email communication between an Eunsung representative and Gabe Lubin, CEO of Cartessa, dated December 5, 2022. Eunsung produced this document as confidential pursuant to the protective order entered in this IPR because it includes confidential business discussions between Cartessa and Eunsung. HydraFacial applied the confidentiality stamp when filing the document.

Sealed Exhibit 2063 is the settlement and release agreement between Cartessa and Eunsung. Eunsung produced this document as confidential pursuant to the protective order entered in this IPR because it includes confidential business agreements between Cartessa and Eunsung. HydraFacial applied the confidentiality stamp when filing the document.

Sealed Exhibit 2071 is the PDF printout of what appears to be email communication between Eunsung employees dated July 21, 2022. Eunsung produced this document as confidential pursuant to the protective order entered in this IPR because it includes confidential business discussions by Eunsung employees. HydraFacial applied the confidentiality stamp when filing the document.

Sealed Exhibit 2072 is the PDF printout of a Microsoft Word document that was produced as an attachment to the email in sealed Exhibit 2071. Eunsung produced this document as confidential pursuant to the protective order entered in this IPR because it includes confidential business discussions by Eunsung employees. HydraFacial applied the confidentiality stamp when filing the document.

The POPR references the confidential financial data contained in sealed Exhibit 2010 and summarized in sealed Exhibit 2009. HydraFacial has filed a confidential, unredacted version of the POPR (Paper 9) and a public version of the POPR (Paper 10) with the references to HydraFacial's confidential sales data redacted.

The sealed Motion to Terminate (Paper 15) references the confidential information contained in sealed Exhibits 2057-2063 and 2071-2072. A high-level description of this information appears in Patent Owner's Motion to Seal with Motion to Terminate (Paper 18), which is publicly accessible.

Petitioner's Opposition to Motion to Terminate (Paper 19) references the confidential communications contained in sealed Motion to Terminate and Exhibits 2057-2063. A high-level description of this information appears in Petition's Motion to Seal with Opposition to Motion to Terminate (Paper 20), which is publicly accessible.

None of the confidential information contained in sealed Exhibits 2010, 2057-2063, and 2071-2072, the redacted portions of unsealed Exhibit 2009, the redacted portions of the public POPR, the sealed Motion to Terminate, or the sealed Opposition to Motion to Terminate have been made public or were substantively relied on in the opinions in the Director's Decision Referring the Petitions to the Board (Paper 14) or the Board's Decision Settlement Prior to Institution of Trial (Paper 24).

II. THE BOARD SHOULD EXPUNGE THE PARTIES' CONFIDENTIAL EXHIBITS, UNREDACTED POPR, MOTION TO TERMINATE, AND OPPOSITION TO MOTION TO TERMINATE

The parties request that sealed Exhibits 2009-2010, 2057-2063, and 2071-2072, unredacted POPR (Paper 10), sealed Motion to Terminate (Paper 15), and sealed Opposition to Motion to Terminate (Paper 19) be expunged. These sealed exhibits, the unredacted POPR, the sealed Motion to Terminate, and the sealed Opposition to Motion to Terminate contain the parties' confidential business information that would be harmful to the parties if publicly released as discussed in

Patent Owner's Motion to Seal and for Entry of a Protective Order (Paper 8), Patent Owner's Motion to Seal with Motion to Terminate (Paper 18), and Petitioner's Motion to Seal with Opposition to Motion to Terminate (Paper 20). This motion is timely filed pursuant to the Board's authorization.

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." Similarly, the Consolidated Trial Practice Guide states, in pertinent part, that "[t]here is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review" and that "[a] party seeking to maintain the confidentiality of information, however, 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 Petitioner'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 parties' confidential business information is contained in these documents that are not cited in the Director's Decision Referring the Petitions to the Board and are not relied upon in determining whether terminate this proceeding under the Board's Decision Settlement Prior to Institution of Trial.¹ This information is confidential and would cause the parties significant harm if it were disclosed.

Second, the redactions are narrowly tailored and the sealed filings are limited, removing only the confidential information as discussed above. Patent Owner's public POPR contains redactions on 3 pages.² The specific financial data used to demonstrate commercial success is not itself at issue in the dispute; rather, it is the fact of commercial success—regardless of the underlying financial details—that is relevant. This strikes the appropriate balance in maintaining the public's interest in maintaining a complete and open record with HydraFacial's own interest in

¹ Sealed Exhibits 2009-2010 and the redacted portions of the public POPR are only cited with respect to granting HydraFacial's Motion to Seal and for Entry of Protective Order.

² The redactions are on pages 1, 51, and 53 and only relate to financial data supporting secondary consideration relating to commercial success.

protecting its confidential and highly sensitive information. Additionally, the parties' sealed Motion to Terminate and Opposition to Motion to Terminate discuss confidential information and communications of Eunsung, which describe and characterize the relationship between Eunsung and Cartessa. These details are not relevant to the public's interest.

For these reasons, the Board should expunge sealed Exhibits 2009-2010, 2057-2063, and 2071-2072 and sealed Papers 10, 15, and 19.

III. CONCLUSION

For the above reasons, Patent Owner and Petitioner respectfully request the Board grant this Joint Motion to Expunge.

Dated: August 22, 2025

Respectfully Submitted By:

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4) and with the agreement of counsel for Petitioner, I certify that on August 22, 2025, a copy of this **JOINT MOTION TO EXPUNGE** was served via the email correspondence address of record for Petitioner's counsel of record:

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