

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EUNSUNG GLOBAL CORP.,
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

IPR2025-00445
Patent 9,550,052 B2

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

JESCHKE, *Administrative Patent Judge*.

ORDER
Granting Joint Motion to Expunge
37 C.F.R. § 42.56

BACKGROUND

The Board did not issue a decision on institution in this proceeding. Instead, we granted a joint motion to terminate the proceeding prior to institution based on settlement. *See* Paper 24. With prior authorization, the parties then filed a Joint Motion to Expunge. *See id.* at 4 (authorization); Paper 25 (the “Motion” or “Mot.”). Upon consideration of the arguments presented and for the reasons below, we *grant* the Motion.

DISCUSSION

A party may file a motion to expunge confidential information from the record to preserve its confidentiality. 37 C.F.R. § 42.56. A party seeking expungement must show good cause by demonstrating “that any information sought to be expunged constitutes confidential information, and that [the party’s] interest in expunging it outweighs the public’s interest in maintaining a complete and understandable history of th[e] *inter partes* review.” *Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, IPR2013-00453, Paper 97 at 2 (PTAB Apr. 15, 2015).

The parties seek to expunge (1) the confidential version of Patent Owner’s Preliminary Response (Paper 10), (2) Patent Owner’s Motion to Terminate (Paper 15) (filed only under seal), (3) Petitioner’s Opposition to the Motion to Terminate (Paper 19) (filed only under seal), (4) the confidential version of Exhibit 2009, and (5) Exhibits 2010, 2057–2063, 2071, and 2072 (all filed only under seal). *See* Mot. 1–6.

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. 2. 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. Patent Owner filed a confidential version of Exhibit 2009 and a public version of Exhibit 2009 with the passages at issue redacted. Patent Owner filed a confidential version of the Preliminary Response and a public version of the Preliminary Response with redacted passages relating to information from Exhibits 2009 and 2010. *See* Paper 10 (confidential version) & Paper 11 (public version).

Exhibits 2057 through 2063 and Exhibits 2071 and 2072 (as summarized in the Motion) are certain confidential documents filed by Patent Owner with no redacted public versions that are discussed in both Patent Owner's Motion to Terminate based on 35 U.S.C. § 315(b) (Paper 15) and Petitioner's Opposition (Paper 19).

According to the parties, "[n]one of the confidential information contained in" the papers and exhibits summarized above "have been made public or were substantively relied on in the opinion[] in the Director's Decision Referring the Petition[] to the Board (Paper 14) or the Board's Decision Settlement Prior to Institution of Trial (Paper 24)." Mot. 6.

We agree and find that good cause has been shown to expunge the information at issue. First, some of the information at issue was determined to be confidential and already sealed in this proceeding. *See* Paper 13 (discussing the Preliminary Response and Exhibits 2009 and 2010). The other information was the subject of two motions to seal pending at termination. *See* Paper 18 (discussing Patent Owner's Motion to Terminate and Exhibits 2010, 2057–2063, 2071, and 2072); Paper 20 (discussing Petitioner's Opposition to the Motion to Terminate). The two motions to

seal pending at termination involved confidential information alleged to show a business relationship between Petitioner and a third party, which formed the basis of Patent Owner's Motion to Terminate this proceeding as time barred under 35 U.S.C. § 315(b). *See* Paper 18; Paper 20. We did not rule on the Motion to Terminate and did not rule on the two related motions to seal. Second, as noted by the parties, none of the information at issue was cited in, discussed in, or relevant to the Director's referral or the Decision ending this proceeding. Mot. 6.

Given the circumstances here, we agree that the parties' interests in protecting their confidential information outweighs any public interest in accessing this confidential information to understand these proceedings. Thus, we grant the Motion and expunge the information at issue, as explained in detail below.

ORDER

Accordingly, it is hereby:

ORDERED that the Joint Motion to Expunge is *granted*; and

FURTHER ORDERED that (1) the confidential version of Patent Owner's Preliminary Response (Paper 10), (2) Patent Owner's Motion to Terminate (Paper 15) (filed only under seal), (3) Petitioner's Opposition to the Motion to Terminate (Paper 19) (filed only under seal), (4) the confidential version of Exhibit 2009, and (5) Exhibits 2010, 2057–2063, 2071, and 2072 (all filed only under seal) shall be *expunged* from the record.

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