

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EUNSUNG GLOBAL CORP.,
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

Case No. IPR2025-00452

Patent No. 12,053,607

PATENT OWNER'S MOTION TO EXPUNGE

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.56, the Modified Protective Order (Ex. 2024), and the Board's Decision Settlement Prior to Institution of Trial (Paper 19), Patent Owner HydraFacial LLC ("HydraFacial") requests the Board expunge HydraFacial's confidential exhibits (sealed Exhibits 2009 and 2010) and unredacted POPR (sealed Paper 9) submitted in this proceeding.

HydraFacial's sealed Exhibits 2009 and 2010 and unredacted POPR contain HydraFacial's highly confidential financial information that HydraFacial has designated as "CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER," "CONFIDENTIAL BUSINESS INFORMATION," or "PROTECTIVE ORDER MATERIAL" under the entered protective order. In particular, sealed Exhibits 2009 and 2010 and the unredacted POPR 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 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 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.

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.

None of the confidential financial data contained in sealed Exhibit 2010, the redacted portions of unsealed Exhibit 2009, or the redacted portions of the public

POPR have been made public or were discussed 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 19).

II. THE BOARD SHOULD EXPUNGE HYDRAFACIAL'S CONFIDENTIAL EXHIBITS AND UNREDACTED POPR

HydraFacial requests that HydraFacial's sealed Exhibits 2009 and 2010 and unredacted POPR (Paper 9) be expunged. These sealed exhibits and the unredacted POPR contain HydraFacial's highly confidential business information that would be harmful to HydraFacial if publicly released as discussed in HydraFacial's Motion to Seal and for Entry of a Protective Order (Paper 8). 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, HydraFacial's highly confidential business information is contained in exhibits that are not cited in the Director's Decision Referring the Petitions to the Board and the Board's Decision Settlement Prior to Institution of Trial.¹ Moreover, this information is highly confidential and would cause HydraFacial significant harm if it were disclosed.

Second, HydraFacial's redactions are highly focused and only remove the confidential information as discussed above. For example, HydraFacial's public POPR features redactions on 4 pages.² The specific financial data used to

¹ Sealed Exhibits 2009 and 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, 64, 66, and 67 and only relate to financial data supporting secondary consideration relating to commercial success.

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 protecting its confidential and highly sensitive information.

For these reasons, the Board should expunge sealed Exhibits 2009 and 2010 and sealed Paper 9.

III. CONCLUSION

For the above reasons, HydraFacial respectfully requests the Board grant this Motion to Expunge.

Respectfully Submitted,

Dated: August 15, 2025

/Jacob L. Peterson /
Jacob L. Peterson (Reg. No. 65,096)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4), I certify that on August 15, 2025, a copy of this **PATENT OWNER'S MOTION TO EXPUNGE** was served via the email correspondence address of record for Petitioner's counsel of record:

Jeremy J. Monaldo
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Tel: 202-783-5070
Fax: 877-769-7945
IPR58484-0006IP1@fr.com

Sangki Park
Jay Zhu
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Tel: 202-783-5070
Fax: 877-769-7945
PTABInbound@fr.com

Respectfully Submitted,

Dated: August 15, 2025

/ Jacob L. Peterson /
Jacob L. Peterson (Reg. No. 65,096)