

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REVVO TECHNOLOGIES, INC.,
Petitioner

v.

CEREBRUM SENSOR TECHNOLOGIES, INC.,
Patent Owner

IPR2025-00632

U.S. Patent No. 11,835,421 B2
Issue Date: December 5, 2023

**PETITIONER'S MOTION TO SEAL AND
ENTER PROTECTIVE ORDER**

I. INTRODUCTION

Petitioner Revvo Technologies, Inc. requests that the confidential version of Exhibit 1015 be sealed under 37 C.F.R. § 42.54. Good cause to seal this document exists because a public version of Exhibit 1015 has also been filed, and the redacted information, along with the entirety of the information in Exhibit 1015, is Petitioner's confidential and sensitive business information that is not publicly available.

II. GOVERNING RULES AND PTAB GUIDANCE

Under 35 U.S.C. § 316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public, but a party may file a concurrent motion to seal and the information at issue is sealed pending the outcome of the motion.

Similarly, 37 C.F.R. § 42.14 provides:

The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.

It is, however, only “confidential information” that is protected from disclosure. 35 U.S.C. § 316(a)(7) (“The Director shall prescribe regulations – . . . providing for protective orders governing the exchange and submission of confidential

information”). In that regard, the Office Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012) provides:

The rules aim 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.

* * *

Confidential Information: The rules identify 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. § 42.54.

III. IDENTIFICATION OF CONFIDENTIAL INFORMATION

The confidential information consists of Petitioner’s sensitive business information that is not publicly available, such as proprietary technical, manufacturing, and assembly information. This information is in Exhibit 1015.

IV. GOOD CAUSE EXISTS FOR SEALING THE CONFIDENTIAL INFORMATION

The Board’s rules identify 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. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012). Here, the information that Petitioner seeks to seal is information pertaining to confidential and sensitive technical, manufacturing, and assembly information that is not publicly available.

Exhibit 1015 discloses the characteristics and composition of Petitioner's products, as well as internal manufacturing and assembly documents relating to Petitioner's products. Such information is regarded as highly proprietary and is kept confidential and not otherwise disseminated to the public. If this information were disclosed to competitors, they would unjustly gain an advantage over Petitioner or would be able to introduce competitive products resulting in significant harm to Petitioner, including, but not limited to, financial damage, damage to business relationships, damage to Petitioner's commercial standing, and/or other irreparable harm from public disclosure of the confidential proprietary, commercial, and competitively sensitive business information.

Petitioner seeks to seal the portions of its Exhibit 1015 at pages 7, 10–25, 28, 30–32, 43–45, 52, 57, 66–71, 76–81, 83–84, 86–91, 93–97, 99–100, 110–113, 115–116, 124–130, 132–133, 135–140, 146, 155–166, 169, 171–172, 174, 182–185, 195–196, 199–203, 205–206, 208–213, 217, 221–225, 236–239, 246–247, and 255–264, which cite, reproduce, or substantially describe Petitioner's confidential information. This information includes highly confidential technical and manufacturing information about Petitioner's products. Petitioner seeks to seal only the portions of Exhibit 1015 that include this confidential information.

V. PROPOSED PROTECTIVE ORDER

Petitioner proposes that the attached protective order at Exhibit A be entered. Exhibit A models after the default protective order found in Appendix B of the Trial Practice Guide but limits disclosure of “PROTECTIVE ORDER MATERIAL” to outside counsel of record, experts, support personnel, and the Patent Office. Good cause exists to deviate from the default protective order, as Petitioner’s modifications align the protections over the confidentiality to the information in Exhibit 1015 in this proceeding with the protections provided to Petitioner’s highly confidential information in the stipulated protective order in the underlying district court litigation. (Stipulated Protective Order, Dkt. No. 18, *Cerebrum Sensor Techs., Inc. and Tire Stickers LLC v. Revvo Techs., Inc.*, C.A. No. 24-245 (JLH) (SRF) (D. Del.).)

VI. CERTIFICATION OF NON-PUBLICATION

The undersigned counsel certifies the information sought to be sealed by this Motion to Seal has not, to their knowledge, been published or otherwise made public. Petitioner has made efforts to maintain the confidentiality of this information in a related district court proceeding. In that district court proceeding, the information that Petitioner presently moves to seal has been produced and designated “Highly Confidential Under Protective Order.”

VII. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests the Board grant this motion to seal and enter the Protective Order at Exhibit A.

Dated: February 21, 2025

Respectfully submitted,

COOLEY LLP
ATTN: Patent Group
1299 Pennsylvania Avenue NW
Suite 700
Washington, DC 20004
Tel: (202) 776-2011
Fax: (202) 842-7899

By: / Orion Armon /
Orion Armon
Reg. No. 65,421
Counsel for Petitioner

EXHIBIT A

PROTECTIVE ORDER

The following Protective Order will govern the filing and treatment of confidential information in the proceeding:

Protective Order

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.”

2. Access to confidential information is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) Outside Counsel. Outside counsel of record for a party in the proceeding who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement.

(B) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(C) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to

sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

(D) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in (d)(2)(A)–(E), shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

4. Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

- (A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;
- (B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;
- (C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and
- (D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

5. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) Documents and Information Filed With the Board.

- (i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be

made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The documents or information shall remain under seal unless the Board determines that some or all of it does not qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties. Documents (including deposition transcripts) and other information designated as confidential that are disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as “PROTECTIVE

ORDER MATERIAL” and shall be produced in a manner that maintains its confidentiality.

6. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

(A) Standard Acknowledgement of Protective Order. The following form may be used to acknowledge a protective order and gain access to information covered by the protective order:

UNITED STATES PATENT AND TRADEMARK OFFICE

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Standard Acknowledgment for Access to Protective Order Material

I _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of

the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the District of Delaware for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

Signature

CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. Sections 42.6 and 42.105, that a complete copy of the attached **PETITIONER'S MOTION TO SEAL AND ENTER PROTECTIVE ORDER** and related documents, are being served via FEDERAL EXPRESS on February 21, 2025, the same day as the filing of the above-identified document in the United States Patent and Trademark Office/Patent Trial and Appeal Board, upon Patent Owner by serving the correspondence address of record with the USPTO as follows:

125632 - Snell & Wilmer (LA)
c/o Grant Langton
1 East Washington Street
Suite 2700
Phoenix, AZ 85004

And, via electronic mail upon counsel of record for the PO in the litigation pending before the U.S. District Court for the District of Delaware captioned as *Cerebrum Sensor Technologies, Inc., et al. v. Revvo Technologies, Inc., Bay Materials LLC. v. 3M Company*, Case No. 1:24-cv-00245-JLH-SRF (D. Del.) as follows:

Christopher D. Bright (cbright@swlaw.com)
Snell & Wilmer L.L.P.
Plaza Tower
600 Anton Boulevard, Suite 1400
Costa Mesa, CA 92626

Christopher Franich (cfranich@swlaw.com)
Snell & Wilmer L.L.P.
Executive Center Del Mar
12230 El Camino Real, Suite 300
San Diego, CA 92130

Morgan R. Povinelli (mpovinelli@swlaw.com)
Snell & Wilmer L.L.P.
2001 K Street NW
Suite 425 North
Washington, DC 20006

Karen Jacobs (kjacobs@morrisnichols.com)
Lucinda C. Cucuzzella (ccucuzzella@morrisnichols.com)
Morris, Nichols, Arsht & Tunnell LLP
1201 North Market Street
Wilmington, DE 19801

DATED: February 21, 2025

/ Orion Armon /
Orion Armon
Reg. No. 65,421
COOLEY LLP
1299 Pennsylvania Ave. NW
Suite 700
Washington, D.C. 20004
Tel: (202) 776-2011