

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FREIGHTCAR AMERICA, INC.,
Petitioner,

v.

NATIONAL STEEL CAR LIMITED,
Patent Owner.

IPR2025-01046
Patent 8,166,892 B2

Before HYUN J. JUNG, NEIL T. POWELL, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Corrected Motion to Seal
37 C.F.R. § 42.14

Petitioner filed a Corrected Motion to Seal. Paper 56 (“Corrected Motion” or “Corr. Mot.”). Petitioner moves to seal Exhibits 1059, 1060, and 1062, along with Paper 53, which is Petitioner’s Substitute Reply to Patent Owner’s Response. Corr. Mot. 2. Patent Owner does not oppose. *See* Paper 57 (setting July 17, 2026 opposition due date).

The standard for granting a motion to seal is “for good cause.” 37 C.F.R. § 42.54(a). The moving party bears the burden to show entitlement to the requested relief and to establish that the information sought to be sealed is confidential information. *Id.* § 42.20(c). 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. *Argentum Pharms. LLC v. Alcon Rsch., Ltd.*, IPR2017-01053, Paper 27 at 3 (PTAB Jan. 19, 2018) (informative).

Petitioner explains that its Substitute Reply relies on Exhibits 1059, 1060, and 1062, which were produced with a confidential designation under a protective order in another proceeding. Corr. Mot. 2–3. Petitioner further explains that each of Exhibits 1059, 1060, and 1062 discusses internal business activities of Canadian National (a non-party to this proceeding). *Id.* Petitioner persuades us that good cause exists to seal its Substitute Reply and Exhibits 1059, 1060, and 1062.

Petitioner has not filed a public redacted copy of its Substitute Reply or any of Exhibits 1059, 1060, and 1062. Corr. Mot. 3. Petitioner explains that it does not know of any non-confidential information in the exhibits, which form a small fraction of Petitioner’s evidence. *Id.* Petitioner persuades us that it is unnecessary to have public, redacted versions of Exhibits 1059, 1060, and 1062 in the record.

Petitioner does not, however, explain persuasively why it has not filed a public, redacted copy of its Substitute Reply. *See* Corr. Mot. 3. Petitioner has until August 31, 2026 to either (1) enter a public, redacted copy of its Substitute Reply or (2) file a paper explaining why Petitioner believes it cannot enter a public, redacted copy of the Substitute Reply.

As a reminder, confidential information that is subject to a protective order ordinarily becomes public forty-five (45) days after final judgment in a trial. Consolidated Trial Practice Guide¹ at 21–22. After final judgment in a trial, a party may file a motion to expunge confidential information from the record prior to the information becoming public in accordance with 37 C.F.R. § 42.56.

It is

ORDERED that Petitioner’s Corrected Motion to Seal is *granted*;

FURTHER ORDERED that Paper 53 and Exhibits 1059, 1060, and 1062 are *sealed*; and

FURTHER ORDERED that Petitioner has until August 31, 2026 to either (1) file a public, redacted copy of its Substitute Reply or (2) file a paper explaining why Petitioner believes it cannot enter a public, redacted copy of the Substitute Reply.

¹ USPTO, Patent Trial and Appeal Board Consolidated Trial Practice Guide November 2019, <https://www.uspto.gov/TrialPracticeGuideConsolidated> (“TPG”).

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