

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MARVELL SEMICONDUCTOR, INC.,
Petitioner,

v.

CREDO TECHNOLOGY GROUP LTD.,
Patent Owner.

IPR2025-01220
Patent 11,032,111 B2

Before HUNG H. BUI, GEORGE R. HOSKINS, and
KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

BUI, *Administrative Patent Judge*.

ORDER
Granting-In-Part Motion for Entry of Protective Order
37 C.F.R. §§ 42.14, 42.54

I. INTRODUCTION

In the above-captioned proceeding, Credo Technology Group Ltd. (“Patent Owner”) filed an unopposed Motion for Entry of a proposed modified Protective Order together with a copy of the proposed modified Protective Order and a marked-up comparison of the proposed and default protective orders. Paper 17 (“Motion”); Ex. 2033 (Modified Protective Order); Ex. 2034 (marked-up comparison of the proposed Modified Protective Order and the Board’s Default Protective Order showing differences therebetween).

The Motion represents that the parties have agreed upon the proposed Modified Protective Order provided at Exhibit 2033. Motion 1–2. Patent Owner explains that the proposed Modified Protective Order “deviates from the Board’s default protective order” in that “it provides for a second, heightened level of confidentiality that is restricted to Outside Attorneys Eyes only.” *Id.* at 1.

We indeed observe that the proposed Modified Protective Order differs from the Default Protective Order in that it provides a second, heightened level of confidentiality. *See* Ex. 2033, 1 (“Confidential information shall be clearly marked either ‘CONFIDENTIAL PROTECTIVE ORDER MATERIAL’ or ‘ATTORNEYS EYES ONLY PROTECTIVE ORDER MATERIAL.’”). Patent Owner explains that this heightened level of confidentiality is needed because “Patent Owner intends to submit certain evidence of objective indicia of non-obviousness, including confidential Patent Owner and third-party financial and licensing information” which “requires the entry of an ‘ATTORNEYS EYES ONLY

PROTECTIVE ORDER MATERIAL’ tier to protect [such] sensitive financial and licensing information” as

[t]his sensitive information would put Patent Owner and the third-parties at a competitive disadvantage if such information were to become public. Moreover, as Petitioner is a supplier of technology used in Patent Owner’s competitor’s products, Petitioner’s in-house legal team should similarly be excluded from receiving this sensitive information.

Motion 1–2 (and again noting that “Ppetitioner has agreed to the proposed protective order”).

The Board may, for good cause, issue a protective order “to protect a party or person from disclosing confidential information.” 37 C.F.R. § 42.54(a). A protective order is not entered by default but must be proposed by one or more parties and must be approved and entered by the Board. Patent Trial and Appeal Board Consolidated Trial Practice Guide 19–20, 107 (Nov. 2019) (“Trial Practice Guide”).¹ The Trial Practice Guide sets forth specific guidelines on proposing a protective order and provides a Default Protective Order. *See* Trial Practice Guide 19–20, 107–122. The parties may propose modifications to the Default Protective Order and the Board will generally accept such proposed changes if they are consistent with the integrity and efficient administration of the proceedings. *Id.* at 115. For example, the parties may agree to provide additional tiers or categories of confidential information, such as “Attorneys’ Eyes Only,” and the Board will presumptively accept agreed-to changes that provide additional categories of confidentiality as long as they are reasonable and

¹ Available at <http://www.uspto.gov/TrialPracticeGuideConsolidated>.

adequately define what types of materials are to be included in the additional categories. *Id.* at 115–116.

As noted *supra*, the Modified Protective Order differs from the Default Protective Order in that it provides a second, heightened level of confidentiality. *See* Exs. 2033, 2034.

After reviewing the proposed modifications to the Default Protective Order, we determine that the changes in the proposed Modified Protective Order are consistent with the integrity and efficient administration of the proceeding, and that the changes are justified by the need to maintain a heightened level of confidentiality for particularly sensitive information (such as financial and licensing information), with one modification. That modification is that Office employees and representatives (defined in § 2(F)) shall have access to ATTORNEYS EYES ONLY PROTECTIVE ORDER MATERIALS filed with the Board *without* needing to sign the acknowledgment appended to the protective order, as § 3 otherwise would require.

Accordingly, we grant in part Patent Owner’s Motion.

II. ORDER

Accordingly, it is

ORDERED that Patent Owner’s Motion (Paper 17) is *granted in part*; and

FURTHER ORDERED that the Modified Protective Order in Exhibit 2033, is *entered* as modified above and shall govern the conduct of this proceeding with respect to those papers and exhibits placed under seal.

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