

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TOPSOE, INC.,
Petitioner

v.

CASALE,
Patent Owner

IPR2025-01454
U.S. Patent No. 11,286,168

PETITIONER'S MOTION TO SEAL

On June 1, 2026, Patent Owner moved for the entry of a proposed protective order in this proceeding. Paper 40. The Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner requests that the documents identified below be sealed pursuant to the Proposed Protective Order, Paper 40, Attachment A.

I. Document to be Sealed

For the reasons set forth in Section II, below, there is good cause to seal the following documents pursuant to the Proposed Protective Order (“Confidential Exhibits”). For each of the Confidential Exhibits, Petitioner has prepared a redacted version which will be filed publicly. The redactions are tailored to protect only the confidential information contained in the exhibits.

Exhibit	Description
1046	Process Flow Diagram for QAFCO ammonia synthesis plant, Qatar, Sep. 24, 2007, produced as Topsoe_0029861 pursuant to Protective Order Dkt. 208 in <i>Topsoe, Inc. v. Casale SA</i> , No. 3:24-cv-00033 (S.D. Tex.)
1047	Engineering Agreement between Snamprogetti S.P.A. and Haldor Topsøe A/S for QAFCO ammonia synthesis plant, Qatar, Mar. 8, 2007, produced as Topsoe_0029879 pursuant to Protective Order Dkt. 208 in <i>Topsoe, Inc. v. Casale SA</i> , No. 3:24-cv-00033 (S.D. Tex.)
1048	Process Flow Diagram for Tata Babrala ammonia synthesis plant, India, Oct. 7, 2010, produced as Topsoe_0029994 pursuant to Protective Order Dkt. 208 in <i>Topsoe, Inc. v. Casale SA</i> , No. 3:24-cv-00033 (S.D. Tex.)

1049	Engineering Agreement between Snamprogetti S.P.A. and Haldor Topsøe A/S, Sep. 26, 1989, produced as Topsoe_0030024 pursuant to Protective Order Dkt. 208 in <i>Topsoe, Inc. v. Casale SA</i> , No. 3:24-cv-00033 (S.D. Tex.)
1050	Job Closing Report, Tata Babrala Fertilizer Expansion Project, Jul 17, 2011, produced as Topsoe_0029982 pursuant to Protective Order Dkt. 208 in <i>Topsoe, Inc. v. Casale SA</i> , No. 3:24-cv-00033 (S.D. Tex.)
1051	Process Flow Diagram for IFFCO Aonla-1 ammonia synthesis plant, India, Aug. 4, 1987, produced as Topsoe_0018096 pursuant to Protective Order Dkt. 208 in <i>Topsoe, Inc. v. Casale SA</i> , No. 3:24-cv-00033 (S.D. Tex.)
1052	Acceptance Certificate for QAFCO ammonia synthesis plant, Qatar, Sep. 19, 2014, produced as Topsoe_0029869 pursuant to Protective Order Dkt. 208 in <i>Topsoe, Inc. v. Casale SA</i> , No. 3:24-cv-00033 (S.D. Tex.)

II. Good Cause for Sealed the Identified Documents

When enacting *inter partes* reviews, Congress directed the Board to “provid[e] for protective orders governing the exchange and submission of confidential information.” 35 U.S.C. § 316(a)(7). Thus, “[t]he Board may, for good cause, issue an order to protect a party or person from disclosing confidential information” 37 C.F.R. § 42.54(a). In *Argentum Pharm. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 (PTAB Jan. 19, 2018), the Board set forth the standard for sealing confidential information:

[A] movant to seal must demonstrate adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete

harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4) on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.

Id. at 3 (“the *Argentum* Factors”).

The *Argentum* Factor support granting this Motion to Seal for the reasons below.

A. Factor 1: The information sought to be sealed is truly confidential

The Confidential Exhibits are related to ammonia processing plant systems that are designed with Petitioner’s proprietary technology. The Confidential Exhibits can be divided into three categories: process flow diagrams (EX1046, EX1048, EX1051); engineering agreements (EX1047, EX1049); and technical reports (EX1050, EX1052). The contents of the documents in all three categories are protected by Petitioner as its confidential, proprietary, and/or trade secret information, as indicated on the face of the documents themselves. Furthermore, the documents all contain information that is subject to confidentiality restrictions between Petitioner and Petitioner’s customers.

The process flow diagrams contain specific information about how Petitioner designs ammonia production plants. The engineering agreements and the technical reports further contain confidential information concerning Petitioner’s business practices.

To Petitioner's knowledge, these documents have never been publicly disclosed; while the ammonia production plant facilities to which they pertain have been constructed (in India and Qatar), and known and are being used by the ammonia plant owners, the specific information about those facilities contained in the Confidential Exhibits continues to be confidential and not available to the public. The Confidential Exhibits have been produced in *Topsoe, Inc. v. Casale SA*, No 3:24-cv-00033 (S.D. Tex.) under the court's protective order and have been designated as "Confidential – Attorneys' Eyes Only" pursuant to that protective order.

B. Factor 2: A concrete harm would result upon public disclosure

Concrete harm to Petitioner's business interests would result upon the disclosure of the information in the Confidential Exhibits. The process flow diagrams contain Petitioners' trade secret information; public disclosure of this information could erode or destroy the trade secret status of this information and be competitively harmful to Petitioner. In addition to technical information, the public disclosure of the engineering agreements and technical reports would also disclose to potential customers and competitors the terms would be harmful to Petitioner's business interests and competitive position in the ammonia plant technology business.

C. Factor 3: There exists a genuine need to rely in the trial on the specific information sought to be sealed

Patent Owner has filed a motion to vacate institution of this IPR and terminate proceedings, Paper 39, alleging that Petitioner has violated its *Sotera* stipulation through serving preliminary infringement contentions in *Topsoe, Inc. v. Casale SA*, No 3:24-cv-00033 (S.D. Tex.). The Confidential Documents are examples of the documents Petitioner has relied on in those contentions—documents that evidence the claimed invention was known or used by others or on sale prior to the priority date of the patent challenged in this IPR. Through its motion, Patent Owner has put the content and the status, e.g., whether the documents are “printed publications,” at issue in this IPR.

D. Factor 4: On balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record

Petitioner references the Confidential Documents in its opposition, Paper 41, to Patent Owner’s motion to vacate institution and terminate proceedings, Paper 39. The documents, while confidential, are necessary for the Board to have a record on which to decide Patent Owner’s motion. At the same time, Petitioner did not put these documents at issue in this IPR—Patent Owner did that when it filed its motion. Petitioner should not be forced to expose its trade secret and other confidential information as the price of opposing Patent Owner’s motion. Petition has prepared and filed redacted copies of the Confidential Documents; the confidentiality terms

and markings showing these documents are, in fact, treated as confidential by Petitioner and its customers are accessible in the redacted copies for public inspection.

III. Conclusion

For the foregoing reasons, Petitioner respectfully requests that the Board grant this Motion to Seal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on June 15, 2026, a true and correct copy of the foregoing Petitioner's Motion to Seal was served by electronic mail on Patent Owner's lead and backup counsel at the following email addresses:

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