UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INFINEON TECHNOLOGIES AMERICAS CORP.,
Petitioner,

v.

MOSAID TECHNOLOGIES INC.,
Patent Owner.

Case IPR2025-01487
Patent 9,972,381

PETITIONER'S MOTION TO SEAL

In conjunction with its filing of the Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution ("Opposition"; Paper 13), Petitioner submits this Motion to Seal portions of the Opposition and confidential exhibits EX1046 and EX1058. Petitioner further requests that entry of a protective order be held in abeyance as the parties work through their dispute on the matter.

I. GOOD CAUSE TO SEAL PORTIONS OF THE OPPOSITION AND CONFIDENTIAL EXHIBITS EX1046 AND EX1058

The Consolidated Trial Practice Guide (CTPG) states that "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." CTPG at 19. The rules also "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. *Id*. (citing 37 C.F.R. § 42.54).

In determining whether to grant a Motion to Seal, the Board must find "good cause." 37 C.F.R. § 42.54(a). Good cause for sealing material can be established by demonstrating that the balance of the following considerations favors sealing the material: whether (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. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 4 (PTAB January 19, 2018) (informative).

The exhibits Petitioner seeks to seal are declarations from the Vice President and Deputy General Counsel of Infineon Technologies LLC (EX1046) and the Vice President and Corporate Litigation Counsel of Infineon Technologies AG (EX1058). These declarations include highly confidential business information pertaining to negotiations, terms (including financial terms), and conditions with respect to licensing and litigation settlements involving Petitioner and Patent Owner. The information is indicative of how Petitioner and Patent Owner conduct business and make business decisions relating to licensing and litigation.

Petitioner and Patent Owner would suffer concrete harms from public exposure of the confidential business information included in EX1046 and EX1058. For example, a third party armed with this information would gain otherwise unavailable insight into Petitioner's approach and strategy regarding patent licensing negotiations, litigation, and settlement. Such third parties could then leverage this information to Petitioner's disadvantage in future negotiations and disputes. Given that Petitioner is often targeted by patent assertion entities who demand lucrative licenses and liberally file lawsuits, it is particularly important that the confidential information contained in EX1046 and EX1058 remain confidential.

There is a genuine need to rely on the information sought to be sealed in the initial discretionary portion of this proceeding. Among other things, Petitioner's Opposition relies upon EX1046 and EX1058 to establish Petitioner's strong settled expectations and to undercut Patent Owner's alleged (but unsubstantiated) settled expectations. Without these exhibits and the confidential information they contain, the Director would lack the necessary context to make an informed and just decision regarding referral or denial of Petitioner's Petition. Indeed, Petitioner's submission and reliance on EX1046 and EX1058 are warranted by the Director's guidance that the briefs on discretion "should provide a thorough explanation of the outcome that the party is advocating for, supported with facts and evidence." *See Interim Director Discretionary Process* available at https://www.uspto.gov/patents/ptab/interim-director-discretionary-process#.

At the same time, the public's interest in an open record does not weigh heavily with respect to the confidential information contained in EX1046 and EX1058. The public need not know the specific details regarding Petitioner and Patent Owner's licensing and settlement dealings to ascertain Petitioner's arguments against discretionary denial and the Director's subsequent decision on the matter.

II. GOOD CAUSE TO DELAY ENTERING A PROTECTIVE ORDER

Counsel for Petitioner and Patent Owner are presently at an impasse regarding certain modifications to the Board's default protective order. Specifically, the

parties have yet to agree regarding the scope of certain added categories, including "CONFIDENTIAL – ATTORNEYS' EYES ONLY – PROTECTIVE ORDER MATERIAL" and "HIGHLY CONFIDENTIAL – OUTSIDE ATTORNEYS' EYES ONLY – PROTECTIVE ORDER MATERIAL." Petitioner, while not opposed to the additional categories, disagrees with how Patent Owner defines the scope of the permissions within those categories.

On November 10, 2025, Patent Owner filed and served its Discretionary Denial Brief (Paper 7) with certain confidential exhibits marked CONFIDENTIAL and CONFIDENTIAL – ATTORNEYS' EYES ONLY. *See* Paper 7 (citing Exhibits 2005, 2012, 2014-2024). Although Patent Owner did not file a motion to seal or a motion to enter its proposed protective order, Petitioner treated the confidential materials according to the provisions the parties have discussed but not yet agreed upon. Petitioner likewise intends to serve confidential exhibits EX1046 and EX1058 to Patent Owner with the same expectation. As such, there is no harm in withholding entry of a protective order until the parties have resolved their dispute regarding the specific terms of the proposed new categories.

III. CERTIFICATION OF NON-PUBLICATION

The undersigned counsel certifies that the information sought to be sealed by this Motion has not, to their knowledge, been published or otherwise made public.

IV. CONCLUSION

For these reasons, Petitioner respectfully requests the sealing of confidential exhibits EX1046 and EX1056 in addition to portions of Paper 13.

Respectfully submitted,

Dated: December 9, 2025

/Kenneth Wayne Darby Jr./

Kenneth Wayne Darby Jr., Reg. No. 65,068
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
T: 202-783-5070
F: 877-769-7945
Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §42.6(e)(4), the undersigned certifies that December 9, 2025, a complete and entire copy of this Petitioner's Motion to Seal and its supporting exhibits were provided via email, to the Patent Owner by serving the email correspondence addresses of record as follows:

Kenneth J. Weatherwax
Parham Hendifar
LOWENSTEIN & WEATHERWAX LLP
weatherwax@lowensteinweatherwax.com
hendifar@lowensteinweatherwax.com
MOSAID_IPRs@lowensteinweatherwax.com

/Crena Pacheco/

Crena Pacheco
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Tel: 202-783-5070
Fax: 877-769-7945
pacheco@fr.com