

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Stanley Black & Decker, Inc.
Petitioner

v.

Howmet Aerospace Inc.
Patent Owner

IPR2025-01581
U.S. Patent No. 11,885,358

**PETITIONER’S MOTION TO SEAL PETITIONER’S SDD (EXHIBIT
1022), ENTER AN SDD PROTECTIVE ORDER, AND REQUEST *IN*
CAMERA REVIEW OF PETITIONER’S SDD**

Pursuant to Director Squires' Memorandum regarding "Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions" ("Director's Memorandum"), 37 C.F.R. § 42.14, and 37 C.F.R. § 42.54(a), Petitioner respectfully submits this Motion¹ to seal its Search Disclosure Declaration (Exhibit 1022) ("Petitioner's SDD"), request *in camera* review of Petitioner's SDD, and seek entry of a proposed SDD Protective Order.

I. REQUESTED RELIEF

Along with the filing of this Motion, Petitioner is submitting its SDD (Exhibit 1022) as "Filing Party and Board," along with a redacted version of its SDD (Exhibit 1023), following the confidentiality procedures outlined in the Director's Memorandum. Under 37 C.F.R. §§ 42.54 and 42.14, Petitioner respectfully (1) moves to seal its SDD (Exhibit 1022); (2) requests *in camera* review of Petitioner's SDD (Exhibit 1022); and (3) moves for entry of a proposed SDD-specific modified version of the Board's Default Protective Order ("SDD Protective Order") attached hereto as Exhibit A, with a redlined version relative to the default protective order provided as Exhibit B.

There is good cause to seal, and the Director's Memorandum authorizes the

¹ The Director's Memorandum (at 2) expressly authorizes Petitioner to file this Motion and thus Petitioner did not independently seek the Board's authorization.

sealing part of paragraph 4 of Petitioner's SDD.

Good cause also exists for granting Petitioner's request for *in camera* review of its SDD, because part of paragraph 4 of its SDD includes confidential information relating to Petitioner's search.

II. LEGAL STANDARD

The Board may, for good cause, issue an order to protect a party or person from disclosing confidential information, including, but not limited to, “[s]pecifying terms, including time and place, for the disclosure or discovery.” 37 C.F.R. § 42.54(a)(2). The Board will protect confidential information after balancing “the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019) (“TPG”), p. 19. A party may file a motion to seal where the motion to seal contains a proposed protective order and a certification that the moving party has in good faith conferred or attempted to confer with other affected parties. 37 C.F.R. §42.54(a).

III. THERE IS GOOD CAUSE TO SEAL PETITIONER’S SDD AND REQUEST *IN CAMERA* REVIEW OF PETITIONER’S SDD

Part of paragraph 4 of Petitioner's SDD (Exhibit 1022) contains Petitioner's

confidential search activity.²

Petitioner has a strong interest in protecting its confidential information relating to its search. Petitioner is not relying on the confidential portion of paragraph 4 of its SDD to support its validity challenge, so the public's interest in accessing it is minimal. Petitioner's interests therefore outweigh any public interest in accessing that confidential information.

Petitioner seeks to seal just a portion of one paragraph in its SDD. *Compare* Exhibit 1023 (public/redacted version of Petitioner's SDD), *with* Exhibit 1022 (Petitioner's SDD (Filing Party and Board Only)). The remainder of Petitioner's SDD is available to the public. Petitioner's limited redaction is therefore narrowly tailored to balance "the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." TPG, p. 19.

Further, the Director's Memorandum specifically authorizes Petitioner's

² This SDD is submitted specifically in response to the Director's Memorandum.

Petitioner understands and intends that such an *ex parte*, confidential submission of the SDD (Exhibit 1022) for *in camera* review by the Board at the Director's request does not waive any applicable privilege or protection (e.g., work product, attorney/client privilege).

SDD to be confidentially filed “as Filing Party and Board, with a motion to seal and an accompanying request for in camera review under 37 C.F.R. § 42.14.”

Director’s Memorandum, p. 2.

There is therefore good cause to seal Petitioner’s SDD (Exhibit 1022) to protect the confidential information relating to the search contained therein and limit access to Petitioner (Filing Party) and the Board so that the Board can review Petitioner’s SDD *in camera*.

IV. SDD PROTECTIVE ORDER

Pursuant to 37 CFR § 42.54, Petitioner requests that the proposed SDD-specific Protective Order attached hereto as Exhibit A be entered. A mark-up comparing this proposed SDD Order to the Board’s default protective order is attached as Exhibit B. *See* TPG, p. 91. This SDD Protective Order is specific to Petitioner’s SDD, so the parties may request entry of a more general protective order in the future (e.g., the default protective order).

As required in the Director’s Memorandum, the attached proposed SDD Protective Order states that “the Office may use the information in [the] SDD for internal training, improving examination processes, and analytics.” This proposed SDD Protective Order also permits access to the SDD by employees and representatives of the Office, including the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons

acting on behalf of the Office who have a need for access to the confidential SDD materials, without any requirement that they sign any acknowledgement.

There is good cause for the SDD Protective Order to deviate from the default protective order to specifically address and protect Petitioner's SDD for the reasons explained above in Section III and in the Director's Memorandum.

V. TIMELINESS OF THIS MOTION AND PETITIONER'S SDD

This Motion and Petitioner's filing of its SDD are timely because the petition in this IPR was filed before November 17, 2025, and Patent Owner's preliminary response is not yet due. *See* Director's Memorandum, p. 2 ("Where an IPR or PGR petition has already been filed, a petitioner may file an SDD within seven business days of this [November 17, 2025] memorandum[,] i.e., by November 26, 2025).

VI. CERTIFICATION OF ATTEMPT TO MEET AND CONFER

Pursuant to 37 C.F.R. 42.54(a), the undersigned certifies that Petitioner has in good faith attempted to confer with Patent Owner in an effort to resolve the dispute. Petitioner emailed Patent Owner yesterday seeking consent to this Motion and/or a meet-and-confer conference today. Patent Owner responded today that a meet-and-confer conference is prudent, but that Patent Owner is not available for such a meet-and-confer conference until December 1. Petitioner could not delay this filing past today's deadline, so it remains unknown whether Patent Owner will

oppose this Motion.

VII. CONCLUSION

In view of the foregoing, Petitioner respectfully asks the Board to (a) grant Petitioner's Motion to seal Petitioner's SDD (Exhibit 1022) for Filing Party and Board access only, (b) review Petitioner's SDD *in camera*, and (c) enter Petitioner's proposed SDD Protective Order (Exhibit A).

Respectfully submitted,

November 26, 2025

/Jack S. Barufka/
Jack S. Barufka (Reg. 37,087)
Counsel for Petitioner

Certificate of Service

Pursuant to 37 CFR §§ 42.6(e)(1), the undersigned certifies that on November 26, 2025, the attached PETITIONER’S MOTION TO SEAL PETITIONER’S SDD (EXHIBIT 1022), ENTER AN SDD PROTECTIVE ORDER, AND REQUEST *IN CAMERA* REVIEW OF PETITIONER’S SDD, including Exhibits A and B thereto, was served by filing this document through the P-TACTS system and by emailing this document to the following counsel for Patent Owner:

- Heath J. Briggs: BriggsH@gtlaw.com
- Scott Bornstein: Scott.Bornstein@gtlaw.com
- Trenton A. Ward: Trenton.Ward@gtlaw.com
- Joseph Agostino: Joseph.Agostino@gtlaw.com
- howmet-iprs@gtlaw.com

November 26, 2025

/Benjamin L. Kiersz/
Benjamin L. Kiersz (Reg. 51,875)

Exhibit A

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Stanley Black & Decker, Inc.
Petitioner

v.

Howmet Aerospace Inc.
Patent Owner

IPR2025-01581
U.S. Patent No. 11,885,358

SDD PROTECTIVE ORDER

This SDD protective order, which is a modified version of the default protective order to allow filing of Petitioner's search disclosure declaration (Exhibit 1022) ("Petitioner's SDD") for *in camera* review pursuant to Director Squires' November 17, 2025 Memorandum regarding "Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions," governs the treatment and filing of confidential information in Petitioner's SDD.

1. Confidential SDD information in Petitioner's SDD shall be clearly marked "SDD CONFIDENTIAL – PROTECTIVE ORDER MATERIAL."

2. Access to confidential SDD information is limited to the following individuals:

(A) The Party filing the confidential SDD information (i.e., Petitioner).

(B) 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. The Office may use the information in the SDD (including the information designated “SDD CONFIDENTIAL – PROTECTIVE ORDER MATERIAL”) for internal training, improving examination processes, and analytics.

3. Persons receiving confidential SDD 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.

Exhibit B

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Stanley Black & Decker, Inc.
Petitioner

v.

Howmet Aerospace Inc.
Patent Owner

IPR2025-01581
U.S. Patent No. 11,885,358

~~DEFAULT SDD~~ PROTECTIVE ORDER

This SDD protective order, which is a modified version of the default protective order to allow filing of Petitioner's search disclosure declaration (Exhibit 1022) ("Petitioner's SDD") for *in camera* review pursuant to Director Squires' November 17, 2025 Memorandum regarding "Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions," governs the treatment and filing of confidential information, ~~including documents and testimony in Petitioner's SDD.~~

1. Confidential SDD information in Petitioner's SDD shall be clearly marked "SDD CONFIDENTIAL – PROTECTIVE ORDER MATERIAL."

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

(A) The Party filing the confidential SDD information (i.e., Petitioner)ies. ~~Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.~~

———(B) Party Representatives. ~~Representatives of record for a party in the proceeding.~~

———(C) 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.~~

~~——(D) In house counsel. In house counsel of a party.~~

~~——(E) 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.~~

(~~FB~~) 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. The Office may use the information in the SDD (including the information designated “SDD CONFIDENTIAL – PROTECTIVE ORDER MATERIAL”) for internal training, improving examination processes, and analytics.

~~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.~~

43. Persons receiving confidential SDD 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.~~

~~7. 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~~

~~BEFORE THE PATENT TRIAL AND APPEAL BOARD~~

~~Stanley Black & Decker, Inc.~~
~~Petitioner~~

~~v.~~

~~Howmet Aerospace Inc.~~
~~Patent Owner~~

~~IPR2025-01581~~
~~U.S. Patent No. 11,885,358~~

~~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 Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and

~~providing remedies for its breach.~~

[Signature]