UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SKECHERS U.S.A., INC.,
Petitioner,

v.

FAST IP, LLC,
Patent Owner.

Case IPR2026-00373
Patent U.S. 12,274,325

MOTION TO SEAL PURSUANT TO PROPOSED PROTECTIVE ORDER PURSUANT TO 37 C.F.R. § 42.54

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner, Skechers, U.S.A, Inc., requests that the proposed Protective Order in Attachment A, which is modified from the Default Protective Order as shown in the markup attached as Attachment B, be entered and govern disclosure of the information below filed under seal. The changes to the Default Protective Order are to conform certain provisions to the protective order entered in the parallel district court action. Patent Owner does not oppose entry of the proposed protective order in this proceeding. Patent Owner also does not oppose this motion to seal.

I. DOCUMENTS TO BE SEALED

For the reasons set forth below in Section II, there is good cause to request the sealing of EX1068, and portions of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial that quote, paraphrase, or discuss EX1068—because of the confidential information contained therein—pursuant to the attached Proposed Protective Order (Attachment A), which differs from the Default Protective Order only in the manner shown in the attached markup (Attachment B) comparing the Proposed Protective Order to the Default Protective Order.

Petitioner's Opposition to Patent Owner's Request for Discretionary Denial is filed fully under seal out of an abundance of caution because portions thereof contain quotes, references, and characterizations of EX1068. Petitioner will confer with Patent Owner regarding the scope of redactions to Petitioner's Opposition to

Patent Owner's Request for Discretionary Denial necessary to preserve the confidential information, and will file a public, redacted, non-confidential version within five (5) business days. The redactions will be tailored to protect only the confidential information contained in EX1068.

II. GOOD CAUSE FOR SEALING THE IDENTIFIED DOCUMENTS

When enacting *inter partes* reviews ("IPRs"), 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 Pharmaceuticals 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* factors support granting this Motion for the reasons below.

Factor (1): Petitioner submits that EX1068, and portions of Petitioner's

Opposition to Patent Owner's Request for Discretionary Denial that quote, paraphrase, or discuss EX1068, are truly confidential. EX1068 was produced by FAST IP in the parallel district court proceeding as "RESTRICTED – ATTORNEYS' EYES ONLY," pursuant to the protective order entered in the district court. They include, for example, information related FAST IP's licensing activities and relationship with its licensees.

Factor (2): Petitioner submits that it has good cause to seal EX1068, and portions of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial that quote, paraphrase, or discuss EX1068, because they contain information provided to the Petitioner under the terms of the district court protective order which limits the disclosure of such information.

Factor (3): Petitioner submits that there is a genuine need to rely on EX1068 for the reasons set forth in Petitioner's Opposition to Patent Owner's Request for Discretionary Denial. For example, the relied-upon information relates to and rebuts FAST IP's arguments concerning its settled expectations in this proceeding; and

Factor (4): Petitioner's and FAST IP's interest in maintaining confidentiality outweighs the public interest in having an open record. As discussed above, portions of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial reflect the confidential information contained in EX1068. Petitioner will propose redactions to its Opposition to Patent Owner's Request for Discretionary Denial,

tailored to remove only the confidential information and aiming to disclose to the public as much as possible. The Board should thus find that the present motion strikes an appropriate balance of the parties' interest in confidentiality and the public's need in the full record.

III. CONCLUSION

Petitioner respectfully requests that the Board enter the attached protective orders and grant this Motion to Seal.

Dated: September 4, 2026

Respectfully submitted,

/s/Kamran Vakili

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Attorney for Petitioner,
Skechers U.S.A., Inc.

ATTACHMENT A – PROPOSED PROTECTIVE ORDER

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked "PROTECTIVE ORDER MATERIAL" or, if applicable, "RESTRICTED – ATTORNEYS' EYES ONLY."

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

(A) Party Representatives. Outside counsel of record for a party in the proceeding (including the parties' lawyers who have made appearances for the parties, as well as the other attorneys at the lawyers' law firms).

(B) 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.

(C) In-house counsel. In-house counsel of a party.

(D) 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.

(E) 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.

3. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in (2)(A)–(E), shall be extended access to confidential information marked "PROTECTIVE ORDER MATERIAL" 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.

4. For confidential information designated "RESTRICTED – ATTORNEYS' EYES ONLY," access to, and disclosure of, such confidential information to shall be limited to individuals listed in paragraphs 2(A)-(E); provided, however, that access by in-house counsel pursuant to paragraph 2(C) be

limited to in-house counsel who exercise no competitive decision-making authority on behalf of the client.

5. Persons receiving confidential 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.

6. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) <u>Documents and Information Filed With the Board.</u>

(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" or, if applicable, "RESTRICTED- ATTORNEYS' EYES ONLY," and shall be produced in a manner that maintains its confidentiality.

7. 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.

[CAPTION]

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]

ATTACHMENT B – MARKUP OF PROPOSED PROTECTIVE ORDER TO DEFAULT PROTECTIVE ORDER

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked "PROTECTIVE ORDER MATERIAL~~.~~" or, if applicable, "RESTRICTED – ATTORNEYS' EYES ONLY."

2. Access to confidential information marked "PROTECTIVE ORDER MATERIAL" is limited to the following individuals who have executed the acknowledgment appended to this order:

~~(A) Parties. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.~~

~~(B)~~(A) Party Representatives. ~~Representatives~~ Outside counsel of record for a party in the proceeding (including the parties' lawyers who have made appearances for the parties, as well as the other attorneys at the lawyers' law firms).

~~(C)~~(B) 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)~~(C) In-house counsel. In-house counsel of a party.

~~(E)~~(D) 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.

~~(F)~~(E) 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.

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 marked "PROTECTIVE ORDER MATERIAL" 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.

4. For confidential information designated "RESTRICTED – ATTORNEYS' EYES ONLY," access to, and disclosure of, such confidential information shall be limited to individuals listed in paragraphs 2(A)-(E); provided, however, that access by in-house counsel pursuant to paragraph 2(C) be limited to in-house counsel who exercise no competitive decision-making authority on behalf of the client.

~~4.~~5. Persons receiving confidential 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.~~6. 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" or, if applicable, "RESTRICTED – ATTORNEYS' EYES ONLY," and shall be produced in a manner that maintains its confidentiality.

~~6.~~7. 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.

[CAPTION]

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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]

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on September 4, 2026, a copy of the foregoing document **MOTION TO SEAL PURSUANT TO PROPOSED PROTECTIVE ORDERS PURSUANT TO 37 C.F.R. § 42.54** and **ATTACHMENT A AND ATTACHMENT B** was served by electronic mail upon the following parties:

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