

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GODBERSEN-SMITH CONSTRUCTION COMPANY
d/b/a GOMACO CORPORATION,
Petitioner,

v.

GUNTERT & ZIMMERMAN CONST. DIV., INC.,
Patent Owner.

Case PGR2024-00026
U.S. Patent No. 11,772,723

**PATENT OWNER'S MOTION TO SEAL
UNDER 37 C.F.R. §§ 42.14 AND 42.54**

Patent Owner's Motion to Seal Under 37 C.F.R. §§ 42.14 and 42.54
PGR2024-00026 (U.S. Patent No. 11,772,723)

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner, Guntert & Zimmerman Const. Div., Inc. ("G&Z") hereby moves to seal portions of its Patent Owner's Response, Declarations, and Exhibits which are identified below:

Filing	Content	Confidential Information
Patent Owner's Response	Pages 38, 52, 54, 57, and 61 ¹	Contains highly confidential information regarding Petitioner's confidential business information.
Ex. 2005 - Bryden Declaration	¶¶ 62, 83, 87, 89, 93, 94	Contains highly confidential information regarding Petitioner's and Patent Owner's confidential business information.
Ex. 2007	Patent Owner's internal notes regarding engineering and product design	Contains highly confidential information regarding Patent Owner's confidential business information.
Ex. 2010 – Klein Transcript	Deposition testimony of Petitioner's Vice President of Engineering Research and Development	Contains highly confidential information regarding Petitioner's confidential business information.
Ex. 2011	Petitioner's internal notes regarding engineering and product design	Contains highly confidential information regarding Petitioner's confidential business information.

¹ Redacted and unredacted versions of Patent Owner's Response and Ex. 2005 have been filed.

Ex. 2012	Petitioner's meeting notes regarding product design	Contains highly confidential information regarding Petitioner's confidential business information.
Ex. 2024	Patent Owner's internal discussion regarding engineering and product design	Contains highly confidential information regarding Patent Owner's confidential business information.
Ex. 2031	Patent Owner's confidential financial information	Contains highly confidential information regarding Patent Owner's confidential business information.
Ex. 2035	Patent Owner's confidential financial information	Contains highly confidential information regarding Patent Owner's confidential business information.
Ex. 2036	Patent Owner's confidential financial information	Contains highly confidential information regarding Patent Owner's confidential business information.

I. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

The Board's standards for granting motions to seal are discussed in *Garmin Int'l, Inc. v. Cuozzo Speed Techs., LLC*, Case IPR2012-00001, Paper 34 at 4–5 (P.T.A.B. Mar. 14, 2013). The standard for granting a motion to seal is “good cause.” 37 C.F.R. § 42.54(a). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). In particular:

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.

* * *

Confidential Information: The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 36(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.

35 U.S.C. § 316(a)(7); 37 C.F.R. § 42.54; Office Trial and Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

The Patent Owner's Response, Declarations, and Exhibits contain confidential information requiring that it be designated as "PROTECTIVE ORDER MATERIAL" under the Default Protective Order (filed by Petitioner as Appendix A of its Motion to Seal). See Paper 3. The Patent Owner's Response, Declarations, and Exhibits contain highly confidential information and in particular, discuss and reveal confidential information regarding highly confidential internal information relating to Petitioner's product design and engineering efforts and Patent Owner's sales and financials. The confidential information disclosed in the Patent Owner's Response, Declarations, and Exhibits is also outlined in the chart above.

The sealing of the foregoing is of particular importance because the public disclosure of such "truly sensitive information" would impact Petitioner's and Patent Owner's competitive position in the market. Furthermore, and notwithstanding the foregoing, granting this Motion would not prejudice nor impact this underlying proceeding. The public's interest in accessing the information requiring that the

Patent Owner's Response, Declarations, and Exhibits be sealed for the purposes of the patentability of the challenged claims is outweighed by the prejudicial effect of disclosing the above described confidential business information.

II. CERTIFICATION OF NON-PUBLICATION

To the best of G&Z's knowledge, the confidential information contained in the Patent Owner's Response, Declarations, and Exhibits has not been made publicly available.

III. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY PURSUANT TO 37 C.F.R. § 42.54

G&Z, in good faith, met and conferred with Petitioners regarding the scope of the Default Protective Order.

IV. PROPOSED PROTECTIVE ORDER

G&Z proposes that the Default Protective Order found in Appendix A of the Petitioner's Motion to Seal be entered. See Paper 3.

V. CONCLUSION AND RELIEF REQUESTED

Accordingly, good cause exists to warrant entry of the Default Protective Order and to seal the Patent Owner's Response, Declarations, and Exhibits from public disclosure.

Patent Owner's Motion to Seal Under 37 C.F.R. §§ 42.14 and 42.54
PGR2024-00026 (U.S. Patent No. 11,772,723)

Respectfully submitted,

Dated: February 26, 2025

/James Hannah/

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(Case No. PGR2024-00026)

Attorneys for Patent Owner
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CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6(e), and pursuant to agreement by the parties that filing with the Board through the Patent Trial and Appeal Case Tracking System (P-TACTS) constitutes electronic service, that service was made on the Petitioner as detailed below.

<i>Date of service</i>	February 26, 2025
<i>Manner of service</i>	Electronic Filing with the Board (jason.stach@finnegan.com; luke.mccammon@finnegan.com; david.mroz@finnegan.com; sonja.sahlsten@finnegan.com; robert.high@finnegan.com; gomaco- IPRs@finnegan.com)
<i>Documents served</i>	PATENT OWNER'S MOTION TO SEAL UNDER 37 C.F.R. §§ 42.14 AND 42.54
<i>Persons Served</i>	Finnegan, Henderson, Farabow, Garrett & Dunner, LLP: Jason E. Stach Luke J. McCammon David K. Mroz Sonja W. Sahlsten Robert K. High

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