UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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KUBOTA NORTH AMERICA CORPORATION,
Petitioner,

v.

VERMEER MANUFACTURING COMPANY,
Patent Owner.

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PGR2025-00016
U.S. Patent No. 12,098,063

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**PATENT OWNER'S MOTION TO SEAL AND TO ENTER THE DEFAULT PROTECTIVE ORDER**

Patent Owner Vermeer Manufacturing Company ("Vermeer") respectfully submits this Motion to Seal and to enter the Default Protective Order.

## I. RELIEF REQUESTED

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Vermeer respectfully requests that the Board seal Exhibit 2026 and seal in part Exhibit 2013 and Patent Owner's Response (collectively "the Confidential Documents"). Vermeer further requests entry of the stipulated Default Protective Order as set forth in Appendix B of the Consolidated Trial Practice Guide, as detailed in Section V as well as Ex. 2033.[1]

The parties have conferred regarding the Motion to Seal as required by 37 C.F.R. § 42.54(a), and the Petitioner Kubota North America Corporation ("Kubota") has stated it will not oppose this Motion.

The documents that are the subject of this motion were produced to Vermeer by Kubota or contain information drawn from such documents. Good cause to seal exists because Kubota has represented to Vermeer that the Confidential Documents reflect trade secret or other confidential research, development, or commercial information by designating such materials as "PROTECTIVE ORDER

[1] The only changes between the Default Protective Order and Ex. 2033 are to reflect the appropriate case caption.

MATERIAL." Vermeer therefore submits this Motion to Seal and for entry of the stipulated Default Protective Order in this case.

## II. GOVERNING RULES AND PTAB GUIDANCE

Under 35 U.S.C. § 316(a)(1), papers filed in an *inter partes* review are generally open and available for access by the public; however, a party may file a concurrent Motion to Seal to prevent public disclosure of certain confidential information until the motion is resolved. In determining whether to grant a Motion to Seal, the Board must find "good cause," 37 C.F.R. § 42.54(a), and "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." Consolidated Trial Practice Guide ("TPG") at 19 (Nov. 2019). The Board identifies 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.*

Based on the procedure set forth in the TPG, Vermeer seeks to prevent the disclosure of sensitive information that Kubota has represented is contained in the Confidential Documents.

## III. IDENTIFICATION OF CONFIDENTIAL DOCUMENTS

The Confidential Documents at issue here comprise Exhibit 2026, as well as Exhibit 2013 and Vermeer's Response, both of which quote and characterize the documents contained in Exhibit 2026.

Exhibit 2026 is Kubota's Confidential Document Production. The parties previously stipulated to the Default Protective Order, and Kubota's subsequent production of documents was made with the corresponding "PROTECTIVE ORDER MATERIAL" designation. When the parties conferred before the filing of this Motion, Kubota confirmed that the Confidential Documents are appropriately designated for filing under seal as required by the stipulated Default Protective Order. Ex. 2033, ¶ 5(B).

Exhibit 2013 is the declaration of Dr. Mark Fleming. Exhibit 2013 cites to the Confidential Documents contained in Exhibit 2026, which Kubota has designated for sealing in its entirety.

Vermeer's Response quotes and characterizes information contained in Exhibits 2013 and 2026. Vermeer has, to the best of its ability, limited the amount of confidential material contained in its Response.

## IV. GOOD CAUSE EXISTS FOR SEALING THE CONFIDENTIAL INFORMATION

The standard for granting a motion to seal is "good cause." *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 34 at 3 (P.T.A.B. Mar. 14,

2013). This requires the Board 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." *Id.* Confidential information in IPR proceedings is identified "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." TPG at 19. In particular, 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." *Id.*

To the best of Vermeer's knowledge and based on Kubota's representation that the information contained in the Confidential Documents is indeed confidential, the information sought to be sealed has not been published or otherwise made public. Good cause therefore exists to seal Exhibit 2026 in its entirety and to seal in part[2] Exhibit 2013 and Vermeer's Response, which contain excerpts of Exhibit 2026.

## V. PROPOSED PROTECTIVE ORDER

With this Motion to Seal, Vermeer respectfully requests that the Board enter the stipulated Default Protective Order (Ex. 2033). Vermeer submits that the

[2] Partially redacted versions of Exhibit 2013 and of Vermeer's Response are submitted herewith for public filing.

Protective Order is consistent with the integrity and efficient administration of the proceeding, and consistent with the default protective order found in Appendix B of the Consolidated Trial Practice Guide. Good cause therefore exists to enter the proposed Protective Order.

## VI. CONCLUSION

For the foregoing reasons, Vermeer respectfully requests that the Board seal Exhibit 2026, seal in part Exhibit 2013 and Patent Owner's Response, and enter the stipulated Default Protective Order.

Dated: September 15, 2025

Respectfully submitted,

*/s/ Richard L. Brophy*

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## CERTIFICATE OF SERVICE

Under 37 C.F.R. § 42.6(e), the undersigned certified that on September 15, 2025, a copy of Patent Owner's Motion to Seal and to Enter the stipulated Default Protective Order was served via electronic mail on the following attorneys of record:

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By: */s/ Richard L. Brophy*
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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME REQUIREMENTS UNDER 37 C.F.R. § 42.24**

Under 37 C.F.R. § 42.24(d), the undersigned certifies that the Patent Owner's Motion complies with the type-volume requirements of 37 C.F.R. § 42.24(a)(1)(v) because it is less than 15 pages, excluding the parts of the Response exempted by 37 C.F.R. § 42.24(a).

This Response also complies with the typeface requirements of 37 C.F.R. § 42.6(a)(2)(ii) and the type style requirements of 37 C.F.R. § 42.6(a)(2)(iii) and (iv).

Dated: September 15, 2025

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