UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VIANCE, LLC
Petitioner,
v.

KOPPERS PERFORMANCE CHEMICALS, INC.
Patent Owner.

PGR No. 2026-00023
U.S. Patent No. 12,370,716
Issued: July 29, 2025
Application No. 19/072,608
Filed: March 6, 2025

TITLE: WOOD PRESERVATIVE COMPOSITION COMPRISING 4,5-DICHLORO-2-OCTYLISOTHIAZOL-3(2H)-ONE, A METHOD TREATING A WOOD SUBSTRATE THEREWITH, AND A WOOD PRODUCT PRODUCED THEREFORM

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**PETITIONER'S MOTION TO SEAL**

## I. INTRODUCTION

Petitioner, Viance LLC ("Petitioner"), respectfully requests that Petitioner's Exhibits 1088, 1089, 1090, and the confidential version of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution be sealed in accordance with the terms of the Protective Order. *See* Order Granting Petitioner's Motion to Seal and for Entry of Protective Order, Paper 9, at 1 ("the Protective Order (Ex. 1025) is *entered* and shall govern the conduct of this proceeding with respect to those exhibits placed under seal.") (emphasis in original).

The Protective Order instructs that "[w]here 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." (Ex1025, p.4.) Good cause exists to seal Exhibits 1088, 1089, 1090, and the confidential version of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution because these documents contain sensitive business and financial information belonging to Petitioner, its customers, and its toll manufacturers which Petitioner has previously filed under seal in this Post-Grant Review ("PGR"). (*See* Paper Nos. 1, 9.) Thus, sealing these documents would ensure that previously sealed information remains confidential throughout the course of this proceeding. Patent Owner did not previously oppose Petitioner's Motion to Seal and for Entry of Proposed Protective Order, which sought to seal the same type of confidential information. (*See* Paper Nos. 1, 7.)

## II. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.14 and the Protective Order, and for the reasons set forth below, Petitioner respectfully requests that the Board grant its Motion to Seal Petitioner's Exhibits 1088, 1089, 1090, and the confidential version of Petitioner's Opposition to Patent Owner's Request for

Discretionary Denial of Institution. Petitioner has concurrently filed public versions of Petitioner's Exhibits 1088, 1089, 1090, and Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution.

## III. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION IN ACCORDANCE WITH THE PROTECTIVE ORDER

The Board may enter a protective order for "good cause" when necessary to protect confidential information filed in a proceeding. *See Argentum Pharma. LLC v. Alcon Research Ltd.*, IPR2017-01053, Paper No. 27 at 2 (PTAB Jan. 19, 2018) (Informative); *see also* 37 C.F.R. 42.2 (defining confidential information to mean "trade secret or other confidential research, development, or commercial information"); *see also* Patent Trial and Appeal Board Consolidated Trial Practice Guide, November 2029, at 19-20. Good cause is established through a sufficient explanation why the information sought to be sealed is confidential, a demonstration that the information sought to be sealed is not excessively redacted, and a showing that, on balance, the public interest in maintaining a complete and understandable record is outweighed by the harm to the movant caused by disclosure of the information sought to be sealed and the need of either party to rely specifically on the information at issue. *See Argentum Pharma* at 3-4.

Good cause exists to seal Ex1088 because it discloses sensitive and confidential business information, including financial data and business and operating arrangements belonging to Petitioner and its corporate parents, which are not parties to this PGR. Good cause exists to seal Ex1089 and Ex1090 because they contain sensitive and confidential information relating to Petitioner's agreements with separate toll manufacturers, including toll production quantities, pricing information, and other tolling arrangement data not relevant here. Moreover, Petitioner's toll manufacturers are not parties to this PGR. Good cause exists to seal Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution because it contains information

that Petitioner has previously designated as confidential and filed under seal in this PGR, including the names of its customers which are not parties to this PGR.

Petitioner has submitted public versions of Exhibits 1088, 1089, 1090, and the confidential version of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution with redactions to satisfy the need for public disclosure of information material to patentability. The select redacted portions of Exhibits 1088, 1089, 1090, and Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution have never been made public.

It is appropriate to seal Exhibits 1088, 1089, 1090, and the confidential version of Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution in accordance with the "PROTECTIVE ORDER MATERIAL – OUTSIDE ATTORNEYS' EYES ONLY" designation as set forth in the Protective Order because Petitioner, the third parties which are not parties to this litigation, and Patent Owner are direct business competitors, and the disclosure of Petitioner's and the third parties' sensitive business and trade secret information to Patent Owner would impact their competitive advantage. Patent Owner will have access to the public redacted versions of Exhibits 1088, 1089, 1090, and Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution. Patent Owner's outside counsel will be able to see the unredacted versions of Exhibits 1088, 1089, 1090, and Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution subject to the Protective Order (Exhibit 1025).

A brief description of the information requested to be sealed in each of Exhibits 1088, 1089, 1090, and Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution is detailed below.

## IV. LISTING OF EXHIBITS

### a. Exhibit 1088

Exhibit 1088 is an Amended and Restated Limited Liability Company Agreement. Petitioner redacts select information that would reveal sensitive business information, including financial data, business and operating arrangements, and other data not relevant here. None of the redacted information has been made available to the public. Petitioner would be harmed by the disclosure of this information because such disclosure would make Petitioner's sensitive information available to its competitors, including Patent Owner.

### b. Exhibits 1089 and 1090

Exhibits 1089 and 1090 are Toll Manufacturing Agreements between Petitioner and separate Toll Manufacturers. Petitioner redacts select information that would reveal sensitive business information, including toll production quantities, pricing information, and other tolling arrangement data not relevant here. None of the redacted information has been made available to the public. Petitioner would be harmed by the disclosure of this information because such disclosure would make Petitioner's sensitive information, including pricing and toll manufacturing strategies available to its competitors, including Patent Owner.

### c. Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution

Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution contains information that Petitioner has previously designated as confidential and filed under seal in this PGR, including the names of its customers. (*See* Ex1027, Ex1079, Ex1087.) Petitioner would be harmed by the disclosure of this information because such disclosure would reveal Petitioner's business strategies and arrangements with its customers who are not parties to this

PGR, as well as harm Petitioner's business and competitive advantage by making information related to its relationships with its customers available to its competitors, including Patent Owner.

## V. CONCLUSION

Good cause exists to seal Exhibits Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution in accordance with the Protective Order because the public interest in maintaining a complete and understandable record is not affected because Petitioner has provided publicly redacted versions of the documents sought to be redacted and Patent Owner's Outside Counsel will be able to review the unredacted version of the documents pursuant to the Protective Order (Ex1025). For the reasons set forth herein, Petitioner respectfully requests the Board to grant this Motion to Seal.

Date: June 16, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that the foregoing Motion to Seal was served on June 16, 2026, via Electronic Mail on the Patent Owner's lead and backup counsel at the following addresses of record:

Robert R. Riddle (Reg. No. 69,599)
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Date: June 16, 2026

Respectfully submitted,

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