

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIANCE, LLC,
Petitioner,
v.

KOPPERS PERFORMANCE CHEMICALS, INC.,
Patent Owner.

Case PGR2026-00023
Patent 12,370,716

**PATENT OWNER'S MOTION TO SEAL PATENT OWNER'S
PRELIMINARY RESPONSE AND SUPPORTING DECLARATION**

I. INTRODUCTION

Patent Owner, Koppers Performance Chemicals, Inc. (“Patent Owner”) respectfully requests that the confidential versions of (1) Patent Owner’s Preliminary Response (“POPR”) and (2) the Declaration of Craig R. McIntyre, Ph.D., in Support of Patent Owner’s Preliminary Response (“McIntyre Declaration,” Ex. 2012) be sealed in accordance with the terms of the Protective Order entered in this proceeding. 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.”). Good cause exists to seal because the POPR and the McIntyre Declaration contain information Petitioner has previously designated confidential and filed under seal in this PGR. Patent Owner understands that Petitioner does not oppose this motion to seal.

II. GOVERNING RULES AND PTAB GUIDANCE

Under 35 U.S.C. § 326(a)(1), the default rule is that all papers filed in a post-grant review are open and available for access by the public, but a party may file a concurrent motion to seal and the information at issue is sealed pending the outcome of the motion. Similarly, 37 C.F.R. § 42.14 provides:

The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on the receipt of the

motion and remain so pending the outcome of the decision on the motion.

Only “confidential information” is protected from disclosure. 35 U.S.C. § 326(a)(7) (“The Director shall prescribe regulations . . . providing for protective orders governing the exchange and submission of confidential information”). In this regard, the Office Trial Practice Guide, 84 Fed. Reg. 64280 (Nov. 21, 2019) provides:

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 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information. 37 C.F.R. § 42.54.

Id.

III. GOOD CAUSE EXISTS TO SEAL

Good cause exists to seal the POPR and the McIntyre Declaration because they contain information Petitioner has previously designated confidential and filed under seal in this PGR.

Specifically, the POPR and the McIntyre Declaration discuss and quote from the BDES Agreement (Ex. 1027) and related confidential exhibits, including Ex. 1070, Ex. 1071, Ex. 1072, Ex. 1073, Ex. 1074, Ex. 1079, Ex. 1081, Ex. 1082, Ex.

1083, and Ex. 1087. Petitioner designated these documents as confidential under the Protective Order because they disclose sensitive and confidential business information, including pricing and marketing strategies, as well as sensitive information relating to Petitioner's agreements with its business partners and Petitioner's development history for its wood preservative products.

The Board granted Petitioner's motion to seal those documents (Paper 9), and this motion is consistent with maintaining those protections for that information. Patent Owner has filed both confidential and redacted, non-confidential versions of the POPR and the McIntyre Declaration. The redacted versions clearly indicate the locations of information that has been redacted, and the thrust of the underlying arguments remains clearly discernible from the redacted versions.

IV. CONCLUSION

For the reasons set forth above, Patent Owner respectfully requests the Board grant this motion to seal.

Dated: June 22, 2026

Respectfully submitted,

/Robert Riddle/

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Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on June 22, 2026, a true and correct copy of the foregoing Patent Owner's Motion to Seal was served by electronic mail on Petitioner's lead and backup counsel at the following email address: PGR2026-00023@mcandrews-ip.com.

Date: June 22, 2026

/Robert Riddle/
Robert R. Riddle, Reg. No. 69,599