

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GARMIN INTERNATIONAL, INC. ET AL.

Petitioner

v.

Patent of CUOZZO SPEED TECHNOLOGIES LLC

Patent Owner

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Case IPR2012-00001

Patent 6,778,074

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**PATENT OWNER'S REVISED MOTION TO SEAL**

In compliance with the Board's March 14, 2013 Decision (Paper 34), Patent Owner Cuozzo Speed Technologies LLC (hereinafter "Patent Owner") respectfully submits this Revised Motion to Seal certain documents contained in Exhibits 3000 and 4000 accompanying its Response (Paper 31) and Motion to Amend (Paper 32), both filed March 11, 2013.

Patent Owner appreciates the Board's permission to submit this Revised Motion to Seal and the guidance provided in its Decision. In accordance with the Decision, Patent Owner identifies the following fewer Exhibits B, I, J, K, L, and P of Exhibits 3000 and 4000 containing confidential information and explains the good cause for placing them under seal. Patent Owner certifies conference and agreement with Petitioner Garmin International, Inc. et al. (hereinafter "Petitioner") regarding the proposed protective order and the scope of the proposed protective order. Finally, Patent Owner provides a copy of the default protective order set forth in the Office Patent Trial Practice Guide as the proposed protective order.

**I. Good Cause Exists for Sealing Certain Confidential Information.**

The following Exhibits contain confidential information:

A. Exhibit B of Exhibits 3000 and 4000 (Giuseppe Cuozzo's Driver History Report).

Confidential personal information on Exhibit B of Exhibits 3000 and 4000 includes inventor Giuseppe Cuozzo's driving record maintained by the State of New Jersey. Disclosure of the information in the record would result in embarrassment to Mr. Cuozzo. (*Office Patent Trial Practice Guide*, 77 Fed. Reg. 48760 (Aug. 14, 2012); Fed. R. Civ. P. Rule 26(c)(1)(G)). Although driving records are available from the New Jersey Motor Vehicle Commission, their

confidential nature is demonstrated by the need to submit the driver's license number and last four digits of the driver's social security number in order to obtain a copy.

B. Exhibits I and J of Exhibits 3000 and 4000 (Attorney's Patentability Search Report and Inventor's comments thereto).

These two exhibits include information protected by the attorney-client privilege and although Patent Owner's reliance upon the facts set forth therein effects a narrow waiver of the privilege for purposes of this *inter partes* review and between these parties, Patent Owner respectfully requests the Board seal these documents in furtherance of Patent Owner's and inventor's intent and effort to limit the extent of any waiver and guard against unnecessary litigation concerning the issue of a broad waiver, which would cause Patent Owner and the inventor Giuseppe Cuzzo undue burden, expense, and oppression.

To be clear, Patent Owner does not intend to limit Petitioner's discovery efforts in this proceeding relating to the facts in these documents that are relevant to the inventor's declaration and assertion of pre-filing conception and diligent reduction to practice. Patent Owner asserts, however, that any waiver of the attorney-client privilege relating to this matter is narrow and does not affect a broad waiver of the privilege such that communications with IPR counsel or trial

counsel in the related district court action are discoverable. If these documents are not sealed, third-parties may argue their publication affects a broad waiver of the privilege, imposing unnecessary and undue burden and expense on Patent Owner and inventor. *Id.*

C. Exhibit K of Exhibits 3000 and 4000 (Inventor's Agreement with Invention Submission Corporation).

This exhibit constitutes confidential business information relating to the inventor's agreement with Invention Submission Corporation (hereinafter "ISC"), the financial terms of the agreement with ISC, and details about the inventor's efforts to seek legal counsel to seek patent protection. If published, this information potentially would expose the inventor to embarrassment, undue burden, expense, and oppression as a result of his interaction with ISC and expose confidential business information relating to his engagement of ISC for promotional work. *Id.*

D. Exhibit L of Exhibits 3000 and 4000 (Inventor's receipt for payments to Invention Submission Corporation under Agreement).

This exhibit constitutes confidential personal financial information that potentially would cause the inventor embarrassment if published. The manner and amount of his payments to ISC under their agreement reveals information about his personal financial status. *Id.*

E. Exhibit P of Exhibits 3000 and 4000 (Personal check from Inventor's Family).

This exhibit constitutes confidential personal financial information of the inventor's family member including checking account and bank information. Publication of this information may cause embarrassment, oppression, and possibly would expose the inventor's family to criminal attempts to access their personal financial accounts. *Id.*

**II. Certification of Non-Publication.**

On behalf of Patent Owner, undersigned counsel certifies the information sought to be sealed by this Revised Motion to Seal has not been published or otherwise made public. Efforts to maintain the confidentiality of this information have been undertaken by Patent Owner in a related district court proceeding. In that proceeding, this information was produced under the Protective Order entered in that case and designated confidential.

**III. Certification of Conference with Opposing Party Pursuant to 37 C.F.R. § 42.54.**

Patent Owner has in good faith conferred with Petitioner and has reached agreement with Petitioner as to the scope of the proposed protective order. Petitioner has stated to Patent Owner that Petitioner will not oppose any revised motion to seal regarding Exhibits B, I, J, K, L, and P of Exhibits 3000 and 4000, as

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