

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNDER ARMOUR, INC.
Petitioner,

v.

ADIDAS AG,
Patent Owner.

Case No. IPR2015-00698
U.S. Patent No. 8,092,345

**PETITIONER'S MOTION TO EXPUNGE CONFIDENTIAL
INFORMATION FROM THE RECORD**

EXHIBIT LIST

Exhibit Number	Description
1001	U.S. Patent No. 8,092,345 to Ellis et al.
1002	Docket Report for Civil Action No. 1:14-cv-00130-GMS (excerpt)
1003	Expert Declaration of Dr. Joseph Paradiso
1004	U.S. Patent No. 6,513,532 to Mault et al.
1005	U.S. Patent No. 6,321,158 to DeLorme et al.
1006	Ari T. Adler, <i>A Cost-Effective Portable Telemedicine Kit for Use in Developing Countries</i> (May 2000) (M.S. thesis, Massachusetts Institute of Technology) (on file with MIT Libraries) (“ <i>Telemedicine Kit</i> ”)
1007	U.S. Patent no. 6,790,178 to Mault et al.
1008	NavTalk™ Cellular Phone/GPS Receiver, Owner’s Manual and Reference Guide (January 2000)
1009	Toshiba Satellite 2530CDS Product Specifications (February 2000)
1010	U.S. Patent No. 5,864,870 to Guck et al.
1011	Reply Expert Declaration of Dr. Joseph Paradiso
1012	Transcript of February 5, 2016 deposition of Dr. William Michalson in IPR2015-00698
1013	MapMyFitness, Inc.’s non-infringement contentions (Excerpt of Defendant MapMyFitness, Inc.’s Supplemental Objections and Responses to Plaintiffs’ First Set of Interrogatories (Nos. 3, 6-12))
1014	Expert Declaration of Julie Davis
1015	Biography of Zac Garthe
1016	Biography of Robert T. Vlasis
1017	Transcript of October 21-22, 2015 deposition of Dr. William Michalson (Part I)
1018	Transcript of October 21-22, 2015 deposition of Dr. William Michalson (Part II)
1019	Petitioner’s September 9, 2015 Responses to Patent Owner’s Objections to Admissibility of Evidence
1020	<i>Santarus, Inc. v. Par Pharmaceutical, Inc.</i> , No. 07-551 (GMS), Document 163 (D. Del. June 26, 2009)
1021	Excerpt of transcript of February 5, 2016 deposition of Dr. William Michalson in IPR2015-00700
1022	April 21, 2016 Email From Trials@USPTO.GOV

Pursuant to 37 C.F.R. § 42.56, Petitioner Under Armour, Inc. (“Under Armour”) respectfully submits this motion to expunge certain documents filed under seal containing confidential information from the record. Specifically, Petitioner requests that sealed versions of Exhibits 1011, 1014, 2025, 2026, 2027, 2028, 2029, 2039, and 2040, and Paper Nos. 27, 42, 44, 45, 51, 54, 56, 57, 58, and 62, be expunged from the record.

I. Background

On February 16, 2016, Petitioner submitted its Reply to Patent Owner’s Response to Under Armour Inc.’s Petition for Inter Partes Review, including redacted (Paper No. 26) and sealed (Paper No. 27) versions. In support of its Reply, Petitioner submitted sealed and redacted versions of declarations from Joseph Paradiso (Ex. 1011) and Julie Davis (Ex. 1014). Dr. Paradiso’s and Ms. Davis’s declarations contain highly-confidential technical, financial, and marketing information concerning Petitioner’s MapMyFitness, UA Record, and Armour39 products and services. Petitioner’s Reply incorporates the confidential information contained in the declarations of Dr. Paradiso and Ms. Davis. Along with its Reply, Petitioner also filed an unopposed combined motion to seal Paper No. 27 and Exhibits 1011 and 1014. Paper No. 25.

On March 21, 2016, Patent Owner took the deposition of Ms. Davis. The transcript of Ms. Davis’s deposition (Ex. 2025) contains testimony regarding

confidential information submitted with Petitioner's Reply and supporting exhibits, including Ms. Davis's confidential declaration (Ex. 1014), as well as other confidential technical, financial, and marketing information of Petitioner's products and services. Exhibits introduced and discussed during this deposition include deposition transcripts of Petitioner's employees from a then co-pending district court litigation, all of which were designated confidential under a protective order entered by the Federal District Court of Delaware. Ex. 2026-2029.

On April 1, 2016, Patent Owner took the deposition of Dr. Paradiso. Portions of the transcript of Dr. Paradiso's deposition (Ex. 2039) contain testimony regarding confidential information submitted with Petitioner's Reply and supporting exhibits, including Dr. Paradiso's confidential declaration (Ex. 1011), as well as other confidential technical information of Petitioner's products and services. An exhibit introduced and discussed during this deposition includes a deposition transcript of Petitioner's employee (William Quast) from a then co-pending district court litigation. Ex. 2040. This deposition transcript was designated confidential under a protective order entered by the Federal District Court of Delaware. *Id.*

On April 8, 2016, Patent Owner submitted its Motion to Exclude Evidence, including redacted (Paper No. 43) and sealed (Paper No. 42) versions. This Motion to Exclude discusses and quotes the confidential declaration of Ms. Davis

(Ex. 1014), the confidential deposition transcript of Ms. Davis (Ex. 2025), confidential deposition transcripts of Petitioner employees Chris Glode (Ex. 2026) and Scott Laing (Ex. 2027), and Petitioner's confidential Reply (Paper No. 27). Along with its Motion to Exclude, Patent Owner also filed its Motion for Observation Regarding Cross-Examination of Reply Witness Joseph Paradiso (Paper No. 44) and its Motion for Observation Regarding Cross-Examination of Reply Witness Julie Davis (Paper No. 45), both of which were filed under seal. These Motions for Observation discuss and incorporate the confidential depositions transcripts of Dr. Paradiso (Ex. 2039) and Ms. Davis (Ex. 2025), respectively. Contemporaneous with these filings, Patent Owner also filed an unopposed combined motion to seal its Motion to Exclude (Paper No. 42), its Motions for Observation (Paper Nos. 44 and 45), and Exhibits 2025-2029, 2039, and 2040. Paper 41.

On April 20, 2016, Patent Owner submitted its Response in Opposition to Petitioner's Motion to Exclude, including redacted (Paper No. 50) and sealed (Paper No. 51) versions. This Response to the Motion to Exclude discusses confidential information from the confidential deposition transcripts of Ms. Davis (Ex. 2025). Along with its Response to the Motion to Exclude, Patent Owner filed an unopposed motion to seal Paper No. 51. *See* Paper No. 49.

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