

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNDER ARMOUR, INC.,
Petitioner,

v.

ADIDAS AG,
Patent Owner.

Case IPR2015-00698
Patent 8,092,345 B2

Before JENNIFER S. BISK, MICHAEL J. FITZPATRICK, and
JUSTIN BUSCH, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

DECISION
Granting Petitioner's Motion to Expunge
37 C.F.R. § 42.5

On June 22, 2016, Petitioner, Under Armour, Inc., filed a Motion to Expunge Confidential Information from the Record. Paper 69. Specifically, Petitioner requests expungement of the documents provisionally filed under seal (i.e., Exhibits 2025, 2026, 2027, 2028, 2029, and 2040; the non-public versions of Exhibits 1011, 1014, and 2039; and Papers 27, 42, 44, 45, 51, 54, 56, 57, and 62) and Paper 58¹ (collectively, the “Confidential Documents”). Patent Owner did not file an opposition.

Sealed information ordinarily becomes publicly available after final judgment. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012). The expectation of sealed information becoming public generally applies, however, “where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial.” *Id.* A party may file a motion to expunge confidential information from the record, however, if wishing to preserve its confidentiality. 37 C.F.R. § 42.56.

On May 5, 2016, the parties filed a Joint Motion to Terminate Proceedings, which included a settlement agreement as an exhibit. Paper 66; Ex. 2046. In light of the parties’ settlement, we entered an order terminating the proceeding on May 9, 2016. Paper 67. We did not enter a Final Written Decision nor did we rely on any information in the Confidential Documents to dispose of any issues in this proceeding. Based on the record before us, the need to protect the Confidential Documents outweighs the public interest

¹ Paper 58, identified as a corrected version of Paper 45, was filed by Patent Owner as a publicly accessible document. *See* Paper 58. In the instant motion, Petitioner asserts the only change in Paper 58 was to provide observation numbers missing in Paper 45. Mot. 4–5.

Case IPR2015-00698
Patent 8,092,345 B2

in unsealing the Confidential Documents. Accordingly, it is appropriate to expunge the Confidential Documents from the record. 37 C.F.R. § 42.5.

In consideration of the foregoing, it is:

ORDERED that the non-public versions of Exhibits 1011, 1014, and 2039 be expunged from the record;

FURTHER ORDERED that Exhibits 2025, 2026, 2027, 2028, 2029, and 2040 be expunged from the record; and

FURTHER ORDERED that Papers 27, 42, 44, 45, 51, 54, 56, 57, 58, and 62 be expunged from the record.

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