

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KAPSCH TRAFFICCOM IVHS INC., KAPSCH TRAFFICCOM IVHS
HOLDING CORP., KAPSCH TRAFFICCOM IVHS TECHNOLOGIES
HOLDING CORP., KAPSCH TRAFFICCOM U.S. CORP., and
KAPSCH TRAFFICCOM HOLDING CORP.,
Petitioner,

v.

NEOLOGY, INC.,
Patent Owner.

Case IPR2015-00808 (Patent 6,229,443 B1)
Case IPR2015-00814 (Patent 6,690,264 B2)
Case IPR2015-00818 (Patent 8,237,568 B2)
Case IPR2015-00819 (Patent 8,325,044 B2)¹

Before JUSTIN T. ARBES, GLENN J. PERRY, and
TREVOR M. JEFFERSON, *Administrative Patent Judges*.

ARBES, *Administrative Patent Judge*.

DECISION

Petitioner's Motions to Compel Discovery, Petitioner's Motions to Seal,
and Conduct of the Proceedings
37 C.F.R. §§ 42.5, 42.14, and 42.54

¹ This Decision addresses issues pertaining to all four cases. We exercise our discretion to issue a single Decision to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

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Petitioner Entities

On February 23, 2016, Petitioner indicated by email to the Board that Petitioner entities Kapsch TrafficCom IVHS Holding Corp., Kapsch TrafficCom IVHS Technologies Holding Corp., and Kapsch TrafficCom U.S. Corp. have merged with Petitioner entity Kapsch TrafficCom Holding Corp. Petitioner shall file updated mandatory notice information reflecting the change in the Petitioner entities. Once Petitioner does so, the case captions shall reflect the change going forward.

Case IPR2015-00808

Patent Owner did not file a Response in Case IPR2015-00808. On February 1, 2016, Patent Owner indicated by email to the Board that it sought authorization to file a motion for adverse judgment. We authorized the motion by email on February 3, 2016. Any motion for adverse judgment in the proceeding shall be filed within five business days.

Motions to Compel Discovery

Petitioner filed a Motion to Compel Discovery in Cases IPR2015-00814 (Paper 24), IPR2015-00818 (Paper 25), and IPR2015-00819 (Paper 27). On February 24, 2016, Petitioner indicated by email to the Board that it intends to withdraw its Motions to Compel Discovery. Accordingly, the Motions will be considered withdrawn.

Motions to Seal

Petitioner filed a Motion to Seal in Cases IPR2015-00814 (Paper 27), IPR2015-00818 (Paper 28), and IPR2015-00819 (Paper 30). Petitioner

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seeks to seal (1) deposition copies of the confidential settlement agreement that was sealed previously in these proceedings,² (2) portions of the deposition transcripts of Patent Owner's declarant, Jack Goldberg, and (3) portions of Petitioner's Reply in each proceeding referring to the confidential settlement agreement or confidential portions of the deposition transcripts. Petitioner provides redacted and unredacted versions of the deposition transcript and Reply in each proceeding, and states that Patent Owner does not oppose the Motion to Seal.

The standard for granting a motion to seal is "for good cause." 37 C.F.R. § 42.54(a). Petitioner, as movant, bears the burden of proof in showing entitlement to the requested relief, and must explain why the information sought to be sealed constitutes confidential information. *See* 35 U.S.C. § 316(a)(7); 37 C.F.R. § 42.20(c); Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012). Upon reviewing the materials sought to be sealed, and Petitioner's arguments regarding their confidential nature, we are persuaded that good cause exists to seal them. We also note that the redacted portions of the materials appear to be tailored narrowly to only confidential information. The Motions to Seal will be conditionally granted for the duration of the proceedings. If the final written decision in any proceeding substantively relies on information in a sealed document, the document may be unsealed by an Order of the Board. If any sealed document contains no information substantively relied on in the final written decision, the document may be expunged from the record by an

² *See, e.g.*, IPR2015-00814, Paper 26 (conditionally granting-in-part Patent Owner's motion to seal and entering Patent Owner's proposed protective order).

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Order of the Board. The materials will be sealed pursuant to the protective order previously entered in these proceedings. *See, e.g.*, IPR2015-00814, Ex. 2049.

In consideration of the foregoing, it is hereby:

ORDERED that, within five business days of this Decision, Petitioner shall file updated mandatory notice information in each of the instant proceedings reflecting the change in the Petitioner entities, pursuant to 37 C.F.R. § 42.8, and update its information accordingly in the Patent Review Processing System (PRPS);

FURTHER ORDERED that, within five business days of this Decision, Patent Owner shall either file a motion for adverse judgment in Case IPR2015-00808, pursuant to 37 C.F.R. § 42.73(b), or contact the Board by email to *Trials@uspto.gov* if it does not intend to file such a motion;

FURTHER ORDERED that Petitioner's Motions to Compel Discovery in Cases IPR2015-00814, IPR2015-00818, and IPR2015-00819 are considered *withdrawn*; and

ORDERED that Petitioner's Motions to Seal in Cases IPR2015-00814, IPR2015-00818, and IPR2015-00819 are *conditionally granted*, and the materials sought to be sealed shall remain under seal pursuant to the previously entered protective order in each proceeding.

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PETITIONER:

Gregg F. LoCascio
Nathan S. Mammen
KIRKLAND & ELLIS LLP
gregg.locascio@kirkland.com
nathan.mammen@kirkland.com

PATENT OWNER:

Noel C. Gillespie
Victor M. Felix
Robert H. Sloss
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
gail.poulos@procopio.com