

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SEADRILL GULF OPERATIONS. INC.,  
SEADRILL GULF OPERATIONS VELA, LLC,  
SEADRILL GULF OPERATIONS NEPTUNE, LLC,  
Petitioner

v.

TRANSOCEAN OFFSHORE DEEPWATER DRILLING, INC.,  
Patent Owner

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IPR2015-01929 (Patent 6,047,781)  
IPR2015-01989 (Patent 6,085,851)  
IPR2015-01990 (Patent 6,068,069)

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Before WILLIAM V. SAINDON, BARRY L. GROSSMAN, and  
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

ORDER

On Patent Owner's Motion to Seal Final Written Decision and Oral Hearing  
Transcript

37 C.F.R. §§ 42.14 and 42.54

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IPR2015-01989 (Patent 6,085,851)  
IPR2015-01990 (Patent 6,068,069)

In the Final Written Decision (Paper 95),<sup>1</sup> Patent Owner and Petitioner were ordered to consult with third parties Pacific Drilling SA (“Pacific”) and Stena Drilling Ltd. (“Stena”) and provide proposed redacted copies of the Final Written Decision and the February 13, 2017 Oral Hearing Transcript (Paper 94 “Transcript”).<sup>2</sup> On April 18, 2017, Patent Owner filed a Motion to Seal Oral Hearing Transcript and Final Written Decision identifying Patent Owner’s and Pacific’s proposed redactions. Paper 101 (“Motion”). Additionally, Pacific filed a Response in Support of Patent Owner’s Motion to Seal. Ex. 2220 (“Response”). Patent Owner filed redacted versions of the Final Written Decision (Paper 99) and the Transcript (Paper 100) containing all proposed redactions. Petitioner has not filed an opposition to the Motion, and based on Patent Owner’s assertion that Petitioner provided no additional proposed redactions, does not appear to oppose the Motion. Motion 2.

The record for an *inter partes* review shall be made available to the public, except as otherwise ordered, and a document filed with a motion to seal shall be treated as sealed until the motion is decided. 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14. The standard for granting a motion to seal is “good cause.” 37 C.F.R. § 42.54. There is a strong public policy that favors making information filed in *inter partes* review proceedings open to the

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<sup>1</sup> The citations in this Order are directed to papers and exhibits in IPR2015-01929. The other proceedings will have similar papers and exhibits.

<sup>2</sup> Pacific is a party in related litigation, *Transocean Offshore Deepwater Drilling, Inc. v. Pacific Drilling SA*, Civil Action No. 4:13-cv-1088 (S.D. Tex). Stena is a party in prior related litigation, *Transocean Offshore Deepwater Drilling, Inc. v. Stena Drilling Ltd.*, Civil Action No. 4:08-cv-03287 (S.D. Tex.).

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public. *See Garmin International v. Cuozzo Speed Technologies, LLC*, Case IPR2012-00001 (PTAB March 14, 2013) (Paper 34) (discussing the standards of the Board applied to motions to seal). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). That includes showing that the information is truly confidential, and that such confidentiality outweighs the strong public interest in having an open record. *See Garmin* at 3.

Regarding the Final Written Decision, Patent Owner's proffered redactions are labeled TO-01 (Paper 99, 60) and TO-02 (*id.*). Motion 2. Patent Owner asserts that each of its proposed redactions "pertains to confidential terms from a settlement agreement between Patent Owner and Stena. The settlement agreement contains a confidentiality provision and the redacted terms are of a confidential and sensitive nature." Motion 2. Pacific's proffered redaction is labeled PD-01 (Paper 99, 47). Motion 2. Pacific asserts that its redaction pertains to "a confidential contract term and pricing information from a Pacific drilling services contract. Public disclosure of this information would place Pacific at a disadvantage in future marketing or contracting efforts. This type of financial and operational information is confidential and of a sensitive business nature." Response 2.

Upon review of the unredacted version of the Final Written Decision, we are persuaded that the proposed redacted portions designated as TO-01 and TO-02 are narrowly tailored to redact only confidential information. We are not persuaded, however, that good cause exists to redact the portion of the Final Written Decision designated as PD-01. The proposed redacted portion PD-01 is a citation to page 51 of Exhibit 2102. Paper 95, 47.

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Exhibit 2102 previously was placed under seal. *See id.* at 10, 66 (granting Patent Owner’s Motion to Seal Exhibit 2102). A redacted version of Exhibit 2102 has been entered in the record. Ex. 2102 (redacted version). Page 51 of the redacted version of Exhibit 2102 was not redacted. *See id.* Thus page 51 of Exhibit 2102 is publically accessible. We do not find good cause to redact a citation to a publically accessible document. Although our Final Written Decision stated that if we were to deny or deny in part a motion, “the parties will be given at least one opportunity to refile” (*id.* at 14), we do not provide an opportunity to refile in this particular instance because the information has been made public and this cannot be undone.

Regarding the Transcript, Patent Owner’s proffered redactions are labeled TO-03 (Paper 100 120, ll. 18–21), TO-04 (*id.* at 123, ll. 10–13), TO-05 (*id.* at 123, l. 20, and TO-06 (*id.* at 123, ll. 21–22). Motion 2. Patent Owner asserts that each of its proposed redactions to the Transcript also pertain to the aforementioned confidential terms from a settlement agreement between Patent Owner and Stena. Motion 2. Pacific’s proffered redactions are labeled PD-02 (Paper 100 37, l. 15), PD-03 (*id.* at 37, ll. 17–18), PD-04 (*id.* at 48, ll. 15–16, 16–17), and PD-05 (*id.* at 86, ll. 13–16). Motion 2. Pacific asserts that its proposed redactions to the Transcript pertain to confidential financial, pricing, and operational information of a sensitive business nature. Pacific asserts that “[p]ublic disclosure of this information would place Pacific at a disadvantage in future marketing or contracting efforts, both with respect to its competitors, its customers, and shipyards.” Response 2–3.

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Upon review of the unredacted version of the Transcript, we are persuaded that the proposed redactions are narrowly tailored to redact only confidential information. We are persuaded good cause exists to have the Transcript remain under seal with the publically accessible version containing the proposed redactions designated as TO-03, TO-04, TO-05, TO-06, PD-02, PD-03, PD-04, and PD-05.

After consideration of the record before us, we *grant-in-part* Patent Owner's Motion.

Accordingly, it is:

ORDERED that Patent Owner's Motion (Paper 101) is *granted-in-part*;

FURTHER ORDERED that Patent Owner's Motion (Paper 101) to redact portions designated as TO-01 and TO-02 of the Decision (Paper 95) is *granted*;

FURTHER ORDERED that Patent Owner's Motion (Paper 101) to redact the portion designated as PD-01 of the Decision (Paper 95) is *denied*;

FURTHER ORDERED that Patent Owner's Motion (Paper 101) to redact the Transcript (Paper 94) is *granted*;

FURTHER ORDERED that the redacted version of the Transcript (Paper 99) will be the publically available version; and

FURTHER ORDERED that, concurrent with this Order, a public redacted version of the Final Written Decision will be entered.

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