

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ELEKTA INC.
Petitioner,

v.

VARIAN MEDICAL SYSTEMS, INC.
Patent Owner.

Case No. IPR2016-00476
Patent 8,116,430

Before BRIAN J. MCNAMARA, PATRICK M. BOUCHER, and
GARTH D. BAER, *Administrative Patent Judges*.

BAER, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5

Petitioner Elekta Inc. and Patent Owner Varian Medical Systems, Inc. filed a Joint Motion for Entry of Protective Order, including the parties' proposed Standing Protective Order, attached as Exhibit 1, identifying deviations from the Board's Default Protective Order. Paper 24. The Joint Motion notes Petitioner anticipates filing deposition testimony containing confidential information and the parties have agreed to treat designated portions of the deposition transcript in accordance with the terms of the Protective Order set forth at Exhibit 1. *Id.* The Motion is GRANTED.

The parties are reminded that the record of proceedings before the Board are available to the public, except as ordered otherwise. 37 C.F.R. § 42.14. Documents containing confidential information should be filed with a motion to seal. The Board's standards for granting motions to seal are discussed in *Garmin International v. Cuozzo Speed Technologies, LLC*, IPR2012-00001 (Paper 34, March 14, 2013). In summary, there is a strong public policy for making all information filed in *inter partes* review proceedings open to the public. The standard for granting a motion to seal is "good cause." 37 C.F.R. § 42.54. The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). This includes showing that the information is truly confidential, and that such confidentiality outweighs the strong public interest in having an open record. Entry of a protective order does not guarantee that papers filed with a motion to seal will not eventually be made public, particularly if the Board relies on the information in a decision. A motion to seal is required to include a certification that the moving party has in good faith conferred, or attempted to confer, with the opposing party in an effort to come to an agreement on the scope of the protection sought. *Garmin* at 3.

ORDER

It is ORDERED that the Joint Motion for Entry of Protective Order (Paper 24) is GRANTED;

FURTHER ORDERED that the parties proposed Standing Protective Order (Exhibit 1 attached to Paper 24) is hereby entered; and

FURTHER ORDERED that this protective order shall govern the conduct of the proceeding unless otherwise modified.

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