

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EDWARDS LIFESCIENCES CORPORATION, EDWARDS LIFESCIENCES  
LLC, AND EDWARDS LIFESCIENCES AG

Petitioners

v.

BOSTON SCIENTIFIC SCIMED, INC.

Patent Owner

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Case IPR2017-0060  
Patent 8,992,608

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**JOINT MOTION TO FILE CONFIDENTIAL DOCUMENTS  
UNDER SEAL PURSUANT TO 37 C.F.R. §§ 4214 & 42.54**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioners Edwards Lifesciences, Edwards Lifesciences LLC, and Edwards Lifesciences AG (“Petitioners”) and Patent Owner Boston Scientific Scimed, Inc. (“Patent Owner”) respectfully submit this Joint Motion to Seal Exhibits 2031, 2034, 2036, 2039, 2041, 2042, 2043, 2044, 2045, 2046, 2055, 2056, 2057, 2063, 2077, 2080, 2085, 2086, 2087, 2088, 2089, 2090, and 2091, all of which were filed concurrently with Patent Owner’s Response (Paper No. 22).

## **I. BACKGROUND**

On July 20, 2017, the Board denied without prejudice the Parties’ Joint Motion for Entry of a Stipulated Protective Order. Paper 24. The Board rejected the Proposed Protective Order because, among other things, it incorporated by reference portions of the Protective Order in the related litigation pending in the District of Delaware (“Delaware Protective Order”). The Board also noted that no motion to seal was filed concurrent with the confidential exhibits that Patent Owner filed with restricted public access and none of the confidential exhibits were accompanied by non-confidential versions of the redacted exhibits. Paper 24 at 6.

The Board authorized the Parties to file a motion for entry of a substitute stipulated protective order on, or before, July 28, 2017, providing good cause for entry of such order, and instructed the Parties that the stipulated protective order

shall not be dependent on any other agreement of the Parties. The Board also authorized the Parties to file on, or before, July 28, 2017, a motion to seal addressing each and every paper or exhibit the Patent Owner or Petitioner seeks to maintain as confidential as well as filing a non-confidential, redacted version of each exhibit or paper sought to be maintained as confidential; notify the Board of each exhibit or paper no longer sought to be maintained as confidential; and notify the Board of each exhibit or paper sought to be expunged and no longer relied upon in this proceeding.

The Parties have met and conferred in good faith to comply with the Board's order and hereby submit the Joint Motion to Seal Exhibits 2031, 2034, 2036, 2039, 2041, 2042, 2043, 2044, 2045, 2046, 2055, 2056, 2057, 2063, 2077, 2080, 2085, 2086, 2087, 2088, 2089, 2090, and 2091.

## **II. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION**

Petitioner submits that each of the Proposed Exhibits summarized in the table below contains Petitioner's confidential trade secret, business, and commercial information. In the table below, Petitioner provides detailed good cause reasons for sealing each of the exhibits.

<b>Exhibit</b>	<b>Good Cause for Filing Under Seal</b>
2031	[EDWARDS 01933840-939] – This document is a highly confidential internal presentation that discloses competitive information regarding internal conversations about development of the Sapien product line, including product testing.
2034	[EDWARDS 01026580-751] – This document is a highly confidential presentation disclosed to a limited number of physicians who participate in Edwards' training. It

Exhibit	Good Cause for Filing Under Seal
	contains competitively sensitive information regarding Edwards' physician training strategy.
2036	[EDWARDS 01026527-35] – This document is a highly confidential internal manufacturing specification for a product in Edwards' Sapien line of products. This document contains competitively sensitive information regarding the manufacturing process for Edwards' products.
2039	[EDWARDS00743914-18] – This document is a highly confidential internal report regarding physician preferences related to transcatheter heart valve devices, and therefore contains competitively sensitive information.
2041	[EDWARDS 01033971-90] – This document is highly confidential internal notes regarding business and marketing decisions and progress, and therefore contains competitively sensitive information.
2042	[EDWARDS 01033782-825] – This document is highly confidential internal notes regarding business and marketing decisions and progress. This document contains competitively sensitive information.
2043	[EDWARDS 01033844-86] – This document is highly confidential internal notes regarding business and marketing decisions and progress, and therefore contains competitively sensitive information.
2044	[EDWARDS00260617-58] – This document is a highly confidential internal design review of Edwards' products that contains competitively sensitive information regarding Edwards' products.
2045	[EDWARDS02438701-26] – This document is a highly confidential internal presentation containing marketing, testing, and product development information, and therefore contains competitively sensitive information.
2046	[EDWARDS 0174788-849] – This document is a highly confidential internal presentation regarding the design review for Sapien 3, one of Edwards' Sapien products. It contains competitively sensitive information, including design and testing results.
2055	[EDWARDS 02186714-69] – This is a highly confidential document regarding competition in the transcatheter heart valve industry that includes competitively sensitive information, including survey results.
2056	[EDWARDS 02079411-527] – This is a highly confidential document containing assessments of competition in the transcatheter heart valve industry and contains competitively sensitive information.
2057	[EDWARDS 01809151-282] – This is a highly confidential internal presentation regarding Edwards' messaging and marketing strategy for its products, and therefore contains competitively sensitive information.
2063	[EDWARDS02399064-68] – This is a highly confidential internal draft of a script for a video about Sapien 3 that was later changed. This document contains competitively sensitive information, especially regarding marketing information and messaging of Edwards' products.
2077	[EDWARDS01820001-48] – This is a highly confidential internal marketing presentation regarding Edwards' products, messaging, design trade-offs and choices, and summaries of results, and therefore contains competitively sensitive information.
2080	[Brecker Declaration] – This is a declaration filed by Patent Owner, containing

Exhibit	Good Cause for Filing Under Seal
	references to Edwards' confidential exhibits. The portions that have been redacted contain internal Edwards information about Edwards' Sapien 3 product, including competitively sensitive information.
2085	[EDWARDS 01934680-84] – This is highly confidential internal meeting notes and an internal presentation regarding Edwards' Sapien 3 product, including testing, testing results, and proposed studies, and therefore contains competitively sensitive information.
2086	[EDWARDS01956628-77] – This is a highly confidential internal presentation regarding marketing strategies, messaging, and design goals for Edwards' Sapien 3 product and related systems, and therefore contains competitively sensitive information.
2087	EDWARDS01029569] – This is a highly confidential internal testing video of the Sapien 3 valve. This video is competitively sensitive and would reveal Edwards' testing of its products to its competition.
2088	[EDWARDS 01756438] – This is highly confidential internal meeting notes regarding Edwards' Sapien 3 product, including testing, testing results, and proposed studies, and therefore contains competitively sensitive information.
2089	[EDWARDS 02405909-10] – This is a highly confidential set of internal emails regarding internal analysis of results of a clinical trial, and therefore contains competitively sensitive information.
2090	[EDWARDS 01807655-707] – This is a highly confidential presentation regarding Edwards' internal sales strategy and messaging for its products, and therefore contains competitively sensitive information.
2091	[EDWARDS 02186713] – This is a highly confidential set of internal emails regarding Edwards' employees' views on market preferences and design attributes of transcatheter heart valves, and therefore contains competitively sensitive information.

In light of the competitively sensitive, confidential information disclosed throughout each of Exhibits 2031, 2034, 2036, 2039, 2041, 2042, 2043, 2044, 2045, 2046, 2055, 2056, 2057, 2063, 2077, 2085, 2086, 2087, 2088, 2089, 2090, and 2091, the Petitioner seeks to maintain each of these exhibits under seal in their entirety. Moreover, the entirety of each of Exhibits 2031, 2034, 2036, 2039, 2041, 2042, 2043, 2044, 2045, 2046, 2055, 2056, 2057, 2063, 2077, 2085, 2086, 2087, 2088, 2089, 2090, and 2091 is marked “Highly Confidential” – a designation that

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