

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SKECHERS U.S.A., INC.,
Petitioner,

v.

NIKE, INC.,
Patent Owner.

Case IPR2017-00620 (Patent D723,783 S)
Case IPR2017-00621 (Patent D723,781 S)¹

Before KEN B. BARRETT, GRACE KARAFFA OBERMANN, and
SCOTT A. DANIELS, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

ORDER

*Granting Patent Owner's Unopposed Motions to
Expunge Confidential Materials from the Record*
37 C.F.R. § 42.56

¹ This order addresses issues common to both cases, therefore, we issue a single order to be entered in each case.

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On August 13, 2018, in each proceeding, Patent Owner filed a Motion to Expunge Confidential Materials from the Record. Paper 81, 80 (“Motions”).² Petitioner does not oppose the Motions. Paper 81, 2; Paper 80, 2. Patent Owner seeks to expunge the un-redacted versions of Exhibits 1032 and 2047 in each proceeding. Paper 81, 2; Paper 80, 2. Collectively, those un-redacted materials are referred to in the Motions as the “Sealed Documents.” Paper 81, 2; Paper 80, 2.³

As Patent Owner points out, ordinarily, the Sealed Documents would become public 45 days after final judgment; however, as Patent Owner further observes, our rules permit a party to file a motion to expunge from the record confidential information prior to that information becoming public. Paper 81, 2–3; Paper 80, 2–3; *see Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,623 (Aug. 14, 2012) (establishing expectation that confidential information will become public “45 days after final judgement in a trial”); 37 C.F.R. § 42.56 (rule contemplating motions to expunge confidential information after final judgment in a trial).

Patent Owner previously established good cause for sealing the Sealed Documents and, further, attests that “the Board did not cite to the sealed portions of the Sealed Documents” in the Final Written Decisions entered in these proceedings. Paper 81, 4; Paper 80, 4. Under these circumstances, the public interest in maintaining a full and accurate history of the patents-at-issue is minimally impacted by granting the Motions. We determine that Patent Owner establishes an interest in expunging the Sealed Documents

² We refer sequentially to the paper numbers that correspond to the Motions filed in IPR2017-00620 and IPR2017-00621.

³ The Sealed Documents bear the exhibit numbers in each proceeding.

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that, under the particular facts and circumstances presented here, outweighs any public interest in their disclosure. Paper 81, 2–5; Paper 80, 2–5.

ORDER

Accordingly, it is

ORDERED that Patent Owner’s Unopposed Motion to Expunge Confidential Materials from the Record is *granted* in each proceeding; and

FURTHER ORDERED that the un-redacted versions (that is, the versions filed under seal) of Exhibits 1032 and 2047 shall be expunged from the record in each proceeding.

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