

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ERICSSON INC. and TELEFONAKTIEBOLAGET LM ERICSSON,
Petitioner,

v.

REGENTS OF THE UNIVERSITY OF MINNESOTA,
Patent Owner.

IPR2017-01186 (Patent 8,774,309 B2)
IPR2017-01197 (Patent 7,251,768 B2)
IPR2017-01200 (Patent 8,718,185 B2)
IPR2017-01213 (Patent 8,588,317 B2)
IPR2017-01214 (Patent RE45,230 E)
IPR2017-01219 (Patent RE45,230 E)¹

Before JENNIFER S. BISK, ROBERT J. WEINSCHENK, and
CHARLES J. BOUDREAU, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

ORDER
Denying Petitioner's Motion to Expunge
37 C.F.R. § 42.56

¹ These cases have not been joined or consolidated. Rather, this Order governs each case based on common issues. The parties shall not employ this heading style.

IPR2017-01186 (Patent 8,774,309 B2)
IPR2017-01197 (Patent 7,251,768 B2)
IPR2017-01200 (Patent 8,718,185 B2)
IPR2017-01213 (Patent 8,588,317 B2)
IPR2017-01214 (Patent RE45,230 E)
IPR2017-01219 (Patent RE45,230 E)

I. INTRODUCTION

Petitioner filed a Motion to Expunge the confidential versions of Exhibits 2012–2015, the Preliminary Responses, the Sur-replies, and the Decisions Denying Institution of *Inter Partes* Review (“Decisions”) in each of the captioned cases. *See, e.g.*, IPR2017-01186, Paper 61 (“Motion” or “Mot.”).² For the following reasons, the Motion in each case is *denied*.

II. ANALYSIS

We previously granted Petitioner’s motions to seal the confidential versions of Exhibits 2012–2015, as well as the Preliminary Responses and Sur-replies. Paper 54, 3; Paper 55, 3. We also issued a confidential version of the Decisions. Paper 53. The record in each case includes a redacted public version of the foregoing documents.

The Consolidated Trial Practice Guide states the following regarding the treatment of confidential information:

Confidential information that is subject to a protective order ordinarily would become public 45 days after denial of a petition to institute a trial or 45 days after final judgment in a trial. There is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public. 37 C.F.R. § 42.56. The rule balances the needs of the parties to submit confidential information with the public interest in maintaining a complete

² We cite to the record in IPR2017-01186, unless otherwise noted.

IPR2017-01186 (Patent 8,774,309 B2)
IPR2017-01197 (Patent 7,251,768 B2)
IPR2017-01200 (Patent 8,718,185 B2)
IPR2017-01213 (Patent 8,588,317 B2)
IPR2017-01214 (Patent RE45,230 E)
IPR2017-01219 (Patent RE45,230 E)

and understandable file history for public notice purposes. The rule encourages parties to redact sensitive information, where possible, rather than seeking to seal entire documents.

Consolidated Trial Practice Guide 21–22 (Nov. 2019) (“TPG”), *available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated>. Petitioner argues that the confidential versions of the identified documents “contain confidential, commercially-sensitive acquisition, purchase, and/or sales agreements between Petitioner and Petitioner’s customers or quotations from those agreements.” Mot. 3. According to Petitioner, because “no trial has been instituted in th[ese] proceeding[s],” there is “no public interest in making the [c]onfidential [d]ocuments publicly available.” *Id.* at 4.

The confidential versions of the identified documents provide the basis for certain findings and conclusions in the Decisions. We, therefore, determine that it would not be appropriate to expunge the confidential versions of those documents from the record. Rather, we determine that it is appropriate to retain the confidential versions of the identified documents under seal in the record. The redacted public versions of the identified documents will be retained in the record for public access.

III. ORDER

It is hereby

ORDERED that Petitioner’s Motion to Expunge in each of the captioned cases is *denied*; and

FURTHER ORDERED that the confidential versions of Exhibits 2012–2015, the Preliminary Responses (IPR2017-01186, Paper 30;

IPR2017-01186 (Patent 8,774,309 B2)
IPR2017-01197 (Patent 7,251,768 B2)
IPR2017-01200 (Patent 8,718,185 B2)
IPR2017-01213 (Patent 8,588,317 B2)
IPR2017-01214 (Patent RE45,230 E)
IPR2017-01219 (Patent RE45,230 E)

IPR2017-01197, Paper 29; IPR2017-01200, Paper 31; IPR2017-01213, Paper 29; IPR2017-01214, Paper 29; IPR2017-01219, Paper 31), the Sur-replies (IPR2017-01186, Paper 42; IPR2017-01197, Paper 41; IPR2017-01200, Paper 43; IPR2017-01213, Paper 41; IPR2017-01214, Paper 41; IPR2017-01219, Paper 42); and the Decisions Denying Institution of *Inter Partes* Review (IPR2017-01186, Paper 53; IPR2017-01197, Paper 52; IPR2017-01200, Paper 54; IPR2017-01213, Paper 52; IPR2017-01214, Paper 52; IPR2017-01219, Paper 53) will remain under seal in the record in each of the captioned cases.

IPR2017-01186 (Patent 8,774,309 B2)
IPR2017-01197 (Patent 7,251,768 B2)
IPR2017-01200 (Patent 8,718,185 B2)
IPR2017-01213 (Patent 8,588,317 B2)
IPR2017-01214 (Patent RE45,230 E)
IPR2017-01219 (Patent RE45,230 E)

PETITIONER:

J. Andrew Lowes
John Russell Emerson
Greg Webb
Clint Wilkins
HAYNES AND BOONE, LLP
andrew.lowes.ipr@haynesboone.com
russ.emerson@haynesboone.com
greg.webb.ipr@haynesboone.com
clint.wilkins.ipr@haynesboone.com

PATENT OWNER:

W. Karl Renner
Lawrence K. Kolodney
Christopher Hoff
Andrew B. Patrick
Andrew Dommer
FISH & RICHARDSON P.C.
axf-ptab@fr.com
kolodney@fr.com
hoff@fr.com
patrick@fr.com
dommer@fr.com