

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WESTINGHOUSE AIR BRAKE TECHNOLOGIES CORPORATION,  
Petitioner,

v.

SIEMENS MOBILITY, INC.,  
Patent Owner.

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Case IPR2017-01263  
Patent 6,996,461 B2

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Before MEREDITH C. PETRAVICK and TIMOTHY J. GOODSON,  
*Administrative Patent Judges.*

GOODSON, *Administrative Patent Judge.*

ORDER

Authorizing Petitioner to File a Motion to Expunge  
*37 C.F.R. § 42.56*

On December 7, 2018, Petitioner sent an email to the Board requesting authorization to file a motion to expunge Exhibit 1039 from the record in this proceeding. We previously granted a motion to seal Exhibit 1039, which is an excerpt of an expert report concerning infringement from a district court proceeding. *See* Paper 55. Sealed information ordinarily becomes publicly available after final judgment. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012). However, our rules provide that “after final judgment in a trial, a party may file a motion to expunge confidential information from the record.” 37 C.F.R. § 42.56.

In our view, expungement requests are best addressed after any appeal is concluded so that the record remains complete for appellate review. *See, e.g., Electronic Arts, Inc. v. Terminal Reality, Inc.*, Case IPR2016-00928, slip op. at 3 (PTAB Nov. 6, 2017) (Paper 15) (determining that the record should remain undisturbed pending resolution of any appeal); *Tradestation Group, Inc. v. Trading Techs. Int’l, Inc.*, Case CBM2015-00161, slip op. at 2 (PTAB Aug. 10, 2017) (Paper 137) (same). Neither party has filed a Notice of Appeal in this case as of yet, but the deadline to do so has not passed. *See* 37 C.F.R. § 90.3(a)(1).

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner is authorized to file a motion to expunge Exhibit 1039 no later than ten business days after (a) the conclusion of any appeal concerning this proceeding, or (b) the deadline for appeal has passed;

FURTHER ORDERED that if no motion to expunge is filed by the specified deadline, Exhibit 1039 will be made public in due course.

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