

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HALLIBURTON ENERGY SERVICES, INC.,
Petitioner,

v.

SCHLUMBERGER TECHNOLOGY CORP.,
Patent Owner.

Case IPR2017-01571
Patent 8,646,529 B2

Before PATRICK R. SCANLON, HYUN J. JUNG, and
JAMES J. MAYBERRY, *Administrative Patent Judges*.

JUNG, *Administrative Patent Judge*.

DECISION
Granting Joint Motion to Expunge
37 C.F.R. § 42.56
Dismissing Motions to Seal
37 C.F.R. §§ 42.14 and 42.54

I. MOTION TO EXPUNGE

On June 13, 2018, we granted a Joint Motion to Terminate. Paper 52. With our prior authorization, the parties subsequently filed a Joint Motion to Expunge the Documents under Seal. Paper 53 (“Mot.”). Specifically, the parties move to expunge Papers 7–9, 11, 18, 19, 26, 28, 32, 41, 42, 46, and 47,¹ as well as Exhibits 1101, 1103, 1104,² 1107, 2005, 2009, and 2011–2014, pursuant to 37 C.F.R. § 42.56. Mot. 2. For the reasons set forth below, we *grant* the Joint Motion to Expunge.

Because sealed information ordinarily becomes publicly available after denial of a petition to institute a trial or after final judgment in a trial, a party wishing to preserve its confidentiality may file a motion to expunge the information from the record. Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012); 37 C.F.R. § 42.56. However, a strong public policy exists for making information filed in an *inter partes* review publicly available. 37 C.F.R. § 42.14; *see also* 77 Fed. Reg. at 48760–61.

¹ Paper 8 is the unredacted, confidential version of the Patent Owner’s Motion for Extension of Time for Preliminary Response. Paper 18 is the unredacted, confidential version of the Patent Owner’s Preliminary Response, and Paper 42 is the unredacted, confidential version of the Patent Owner’s Response. Paper 47 is the unredacted, confidential version of the Joint Motion to Terminate. Papers 7, 19, 32, 41, and 46 are the unredacted, confidential versions of Patent Owner’s Motions to Seal. Paper 9 is the unredacted, confidential version of the Petitioner’s Opposition to Patent Owner’s Motion for Extension of Time for Preliminary Response, and Paper 26 is the unredacted, confidential version of Petitioner’s Sur-Reply to Patent Owner’s Preliminary Response. Papers 11 and 28 are the unredacted, confidential version of Petitioner’s Motions to Seal.

² Exhibit 1104 as used herein refers to the unredacted, confidential version of the exhibit.

The public's interest in maintaining a complete and understandable file history is balanced with the parties' interest in protecting truly sensitive information. 77 Fed. Reg. at 48760.

We did not rely on Papers 8, 9, 18, and 26 or Exhibits 1101, 1103, 1104, 1107, 2005, 2009, and 2011–2014 in rendering the Institution Decision. Paper 37. We did not need to consider Paper 42 and did not rely on Paper 47 in granting the Joint Motion to Terminate. Paper 52. The redacted public versions of the Patent Owner's Motion for Extension of Time for Preliminary Response (Paper 23), Patent Owner's Preliminary Response (Paper 21), Petitioner's Sur-Reply to Patent Owner's Preliminary Response (Paper 27), Patent Owner's Response (Paper 45), and Joint Motion to Terminate (Paper 50) provide sufficient information for the public to understand the procedural posture and record of this proceeding. For the reasons discussed below, we dismiss the motions to seal (Papers 7, 11, 19, 28, 32, 41, 46) as moot. In addition, we agree with the parties' reasons for asserting that expunging these papers and exhibits is appropriate. *See* Mot. 4–10. Thus, we find the public's interest in being able to access this information does not outweigh the parties' need to protect their confidential information.

Accordingly, we grant the parties' request to expunge Papers 7–9, 11, 18, 19, 26, 28, 32, 41, 42, 46 and 47, and Exhibits 1101, 1103, 1104, 1107, 2005, 2009, and 2011–2014.

II. MOTIONS TO SEAL

Patent Owner filed Motions to Seal, requesting to seal the unredacted, confidential version of Patent Owner's Motion for Extension of Time for Preliminary Response, Paper 8; the unredacted, confidential version of Patent Owner's Preliminary Response, Paper 18; Exhibit 2014; the unredacted, confidential version of Patent Owner's Response, Paper 42; and the unredacted, confidential version of the Joint Motion to Terminate, Paper 47. Papers 7, 19, 32, 41, and 46.³ Petitioner filed Motions to Seal, requesting to seal the unredacted, confidential version of its Opposition to Patent Owner's Motion for Extension of Time for Preliminary Response, Paper 9; Exhibits 1101 and 1103; the unredacted, confidential version of its Sur-Reply to Patent Owner's Preliminary Response, Paper 26; and Exhibits 1104 and 1107. Papers 11, 28.⁴ Although Patent Owner's Motions to Seal did not expressly identify the confidential versions of these motions as papers to be under seal, we interpret the Motions to Seal as covering these confidential versions of the motions.

As noted above, however, we have granted the parties' request to expunge Papers 8, 9, 18, 26, 42, and 47, as well as Exhibits 1101, 1103, 1104, 1107, and 2014. Accordingly, the Motions to Seal are *dismissed as moot*.

³ Papers 22, 24, 35, 44, and 51 are the public versions of the Motions to Seal. The confidential versions of the Motions to Seal were filed as Papers 7, 19, 32, 41, and 46.

⁴ Papers 12 and 29 are the public versions of the Motions to Seal. The confidential versions of the Motions to Seal were filed as Papers 11 and 28.

III. ORDER

It is:

ORDERED that the Joint Motion to Expunge is *granted*;

FURTHER ORDERED that Papers 7–9, 11, 18, 19, 26, 28, 32, 41, 42, 46 and 47, and Exhibits 1101, 1103, 1104, 1107, 2005, 2009, and 2011–2014 are expunged from the record; and

FURTHER ORDERED that Patent Owner’s and Petitioner’s Motions to Seal are *dismissed* as moot.

PETITIONER:

Henry A. Petri
James P. Murphy
POLSINELLI PC
hpetri@polsinelli.com
jpmurphy@polsinelli.com

PATENT OWNER:

Michael L. Kiklis
Christopher Ricciuti
Katherine Cappaert
Lisa Mandrusiak
Marc K. Weinstein
OBLON, MCCLELLAN, MAIER & NEUSTADT, LLP
CPDocketKiklis@oblon.com
CPDocketRicciuti@oblon.com
CPDocketcappaert@oblon.com
cpdocketmandrusiak@oblon.com
CPDocketWeinstein@oblon.com