

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Huawei Technologies Co. Ltd.
Petitioner

v.

Nokia Solutions and Networks Oy
Patent Owner

Case IPR2017-01604
Patent 8,553,636

**PETITIONER'S MOTION TO SEAL UNDER 35 U.S.C. §312 AND 37
C.F.R. §42.104**

I. Introduction

Pursuant to 37 C.F.R. § 42.14, Petitioner, Huawei Technologies Co. Ltd. (“Petitioner”) hereby move to seal Petitioners’ Petition for *Inter Partes* Review, HUAWEI-1003, and HUAWEI-1012 (“Proposed Sealed Documents”). The Proposed Sealed Documents are filed contemporaneously with this Motion.

II. PROTECTIVE ORDER

In the accompanying district court litigation (*Nokia Solutions and Networks US LLC and Nokia Solutions and Networks OY v. Huawei Technologies Co. LTD. and Huawei Device USA, Inc.*, Case No. 2:16-cv-00753-JRG-RSP (E.D. Tex.)), Patent Owner has agreed to a protective order. When Patent Owner appears in the present proceeding, Petitioners anticipate that the parties will negotiate a protective order of the same or similar scope. In the meantime, Petitioners are submitting the default protective order along with this Motion, which may be replaced by a revised protective order at a later date upon agreement between the parties.

III. BASIS FOR SEALING CERTAIN EXHIBITS

The *Office Patent Trial Practice Guide* provides that “[t]he rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly

sensitive information.” 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). Further, those “rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54); *see also Illumina v. Columbia University*, IPR2013-00011, Paper 66, Aug. 12, 2013 Dec. (granting a motion to seal “technical and business information” and “product development information”).

The Proposed Sealed Documents contain information that is subject to the Protective Order entered in the accompanying district court litigation.

1. **HUAWEI-1012.** This document contains Patent Owner’s Infringement Contentions in the accompanying district court litigation related to U.S. Pat. No. 8,553,636. These Infringement Contentions were marked CONFIDENTIAL by the Patent Owner and, as such, are subject to the Protective Order entered on Oct. 07, 2016. *See Nokia Solutions and Networks US LLC and Nokia Solutions and Networks OY v. Huawei Technologies Co. LTD. and Huawei Device USA, Inc., Case No. 2:16-cv-00753-JRG-RSP*, Paper 43 (E.D. Tex. Oct. 07, 2016)

2. **Petitioners’ Petition for *Inter Partes* Review of U.S. Pat. No. 8,553,636.** This Petition for *Inter Partes* Review references and discusses the subject-matter of HUAWEI-1012, so it should be classified as CONFIDENTIAL. A redacted version of this Petition is provided herewith.
3. **HUAWEI-1003.** The Declaration of Narayan Mandayam references and discusses the subject-matter of HUAWEI-1012, so it should be classified as CONFIDENTIAL. A redacted version of this Declaration is provided herewith.

Pursuant to 37 CFR § 42.55(a), Petitioner proposes entry of the default protective order found in Appendix B of the Trial Practice Guide. As noted previously, the default protective order may be replaced in the future by agreement between the parties to a protective order consistent with that imposed in the related litigation.

The aforementioned Proposed Sealed Documents provide evidence of Patent Owner’s belief about the scope and meaning of the claims in U.S. Pat. No. 8,553,636. Thus, the Proposed Sealed Documents are necessary to construe any disputed claims.

For the foregoing reasons, the Proposed Sealed Documents described herein should receive a “CONFIDENTIAL” designation and be kept under

seal.

Respectfully submitted,

Date: 6-16-17

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