

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

MULTIPACKAGING SOLUTIONS, INC.,  
Petitioner,

v.

CPI CARD GROUP – MINNESOTA, INC.,  
Patent Owner.

---

Case IPR2017-01650  
Patent 8,419,889 B2

---

Before GRACE KARAFFA OBERMANN, CHRISTOPHER M. KAISER,  
and JEFFREY W. ABRAHAM, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

DECISION  
Granting Petitioner's Unopposed Motion to Expunge  
*37 C.F.R. §§ 42.14, 42.56*

On April 17, 2020, pursuant to 37 C.F.R. § 42.56, Petitioner filed a motion to expunge the unredacted version of Patent Owner’s Response (Paper 18), Exhibits 2014–2018, and Exhibit 2020. Paper 42, 2 (“Motion”). Sealed information ordinarily becomes publicly available after final judgment; however, under Rule 42.56, a party wishing to preserve its confidentiality may file a motion to expunge the information. Petitioner attests that Patent Owner does not oppose the Motion. *Id.* at 2. We grant the unopposed Motion for reasons stated below.

On May 7, 2018, the Board sealed Paper 18, Exhibits 2014–2018, and Exhibit 2020 based on a showing that those documents reflect “confidential information belonging to a third party and” Petitioner. *Id.* at 3; *see generally* Paper 25 (Order, granting Petitioner’s unopposed motion to seal and granting a joint request for entry of the Board’s default protective order). Thereafter, on March 4, 2019, following entry of the Final Written Decision (Paper 36), we found good cause to maintain the information under seal and extend the deadline for filing a motion to expunge to 45 days after the conclusion of any appeals (Paper 41). “The Federal Circuit appeal filed by the Patent Owner was concluded on March 16, 2020; and therefore, Petitioner’s Motion is timely filed.” Motion 5.

As Petitioner acknowledges, “[c]onfidential information will ordinarily become public after the final judgment in an IPR unless a Board grants a motion to expunge.” *Id.* at 5 (citing Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012) (“Trial Practice Guide”)). In that regard, a strong public policy exists for making public all information filed in our administrative trial proceedings. 37 C.F.R. § 42.14. Thus, we resolve the Motion by balancing the public’s interest in maintaining a complete and understandable file history against

Petitioner’s demonstrated interest in protecting truly sensitive, confidential information. Trial Practice Guide, 77 Fed. Reg. at 48760–61.

As an initial matter, we observe that Petitioner avers that the redacted version of Patent Owner’s Response (Paper 19) “can remain in the record.” Motion 2 n.1. The redactions that appear in Paper 19, in fact, are confined to information that pertains to copying as an objective indicium of non-obviousness. See Paper 19 at 66, 68–73 (redacted version of Patent Owner’s Response). On that point, in our Final Written Decision, we accepted Patent Owner’s evidence of copying (as reflected in Exhibits 2014–2018 and Exhibit 2020), and assigned “some weight” to that evidence in our analysis. Paper 36, 33–35 (Final Written Decision, explaining that Patent Owner’s evidence of secondary considerations is limited to “evidence that Petitioner copied the invention claimed,” and avoiding disclosure of the allegedly confidential information by “accepting Patent Owner’s evidence of copying” as reflected in Exhibits 2014–2018 and Exhibit 2020).

Against that backdrop, Petitioner avers that the Final Written Decision “did not disclose the substance of the confidential information.” Motion 5 (citing Paper 36, 33–35). We agree and, furthermore, are persuaded that the details of the information are not necessary to an understanding of the reasons supporting our Final Written Decision. Given these facts, we find the public’s interest in access to those details is minimal. Accordingly, we accept Petitioner’s unopposed argument that, because “[t]he details of the confidential information are unimportant to the merits of the case and the public’s interest in having access to such information is minimal, such information should be expunged for good cause.” *Id.*

Accordingly, we *grant* the Motion and *expunge* Paper 18 (Patent Owner’s Response (unredacted)), Exhibits 2014–2018, and Exhibit 2020.

It is

ORDERED that Petitioner's Unopposed Motion to Expunge is  
*granted*;

FURTHER ORDERED that the unredacted version of Patent Owner's  
Response (Paper 18), Exhibits 2014–2018, and Exhibit 2020 are *expunged*; and

FURTHER ORDERED that all other papers and exhibits, including  
the redacted version of Patent Owner's Response (Paper 19), shall remain publicly  
available in the record of this proceeding.

PETITIONER:

Mark Rowland  
Gabrielle Higgins  
ROPES & GRAY LLP  
mark.rowland@ropesgray.com  
gabrielle.higgins@ropesgray.com

PATENT OWNER:

Michael Scheer  
THE LAW OFFICE OF MICHAEL J. SCHEER  
mscheer@michaelscheer.com

Scott Flaherty  
BRIGGS AND MORGAN, P.A.  
sflaherty@briggs.com