

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NVIDIA CORPORATION,
Petitioner,

v.

POLARIS INNOVATIONS LIMITED,
Patent Owner.

Case IPR2017-01781
Patent 8,161,344 B2

Before MINN CHUNG, DANIEL J. GALLIGAN, and
JOHN A. HUDALLA, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Renewed Motion to Seal
35 U.S.C. § 316; 37 C.F.R. §§ 42.14, 42.54

INTRODUCTION

Following our denial without prejudice (Paper 28) of Patent Owner’s Motion to Seal (Paper 20), Patent Owner filed an Unopposed Renewed Motion to Seal (“Motion”). Paper 30. The Motion seeks to seal Paper 25 and Exhibits 2005, 2007, 2009, 2013, 2015, 2023, 2025, 2046, 2048, 1027, and 1028. *Id.* at 1, 4. The chart below lists the documents that are the subject of this motion and the corresponding public, redacted versions.

Version Submitted under Seal	Redacted Version
Ex. 2005	Ex. 2051
Ex. 2007	Ex. 2008
Ex. 2009	Ex. 2010
Ex. 2013	Ex. 2014
Ex. 2015	Ex. 2016
Ex. 2023	Ex. 2024
Ex. 2025	Ex. 2026
Ex. 2046	Ex. 2047
Ex. 2048	Ex. 2049
Ex. 1027	Ex. 1031
Ex. 1028	Ex. 1032
Paper 25	Paper 26

For reasons set forth below, we grant the Motion.

DISCUSSION

There is a strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public, especially in an *inter partes* review, which determines the patentability of claims in an issued

IPR2017-01781
Patent 8,161,344 B2

patent and therefore affects the rights of the public. *Garmin Int'l v. Cuozzo Speed Techs., LLC*, Case IPR2012-00001 (PTAB Mar. 14, 2013), Paper 34, 1–2. In that regard, we note the *Office Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012), provides:

The 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.

* * *

Confidential Information: The 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. § 42.54.

Patent Owner, as the moving party, bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). Patent Owner must show “good cause” for sealing these exhibits. 37 C.F.R. § 42.54(a). In an informative Decision, the Board explained that

a movant to seal must demonstrate adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.

Argentum Pharmaceuticals LLC v. Alcon Research, Ltd., IPR2017-01053, Paper 27, 3 (Jan. 19, 2018).¹

¹ Designated informative on July 10, 2018.

IPR2017-01781
Patent 8,161,344 B2

As to Exhibits 2005, 2007, 2009, 2013, 2015, 2023, 2025, and 2046, Patent Owner seeks to maintain the confidentiality of certain dates in documents supporting its contention of earlier conception and diligent reduction to practice and the identity of a third party with whom a previous assignee of the '344 patent (Qimonda) had a non-disclosure agreement. Motion 1–3. As to Exhibit 2048, Patent Owner seeks to maintain as confidential information “relat[ing] to circumstances that are confidential to Polaris and a third party.” Motion 4.

Patent Owner asserts that Exhibit 1028 has “confidential internal operational and pricing information for” a law firm that worked for Qimonda. Motion 11. According to Patent Owner, the confidential portions of Exhibit 1027, which is a transcript of the deposition of Ferdinand Stöckeler, and Paper 25, which is Petitioner’s Reply, discuss or cite confidential information in the other exhibits.

Patent Owner asserts that all of the information it seeks to seal is truly confidential, that harm would result from its disclosure, and that there is a genuine need for the parties to rely on this information. Motion 6–12. Patent Owner also explains how its need to maintain the confidentiality of this information outweighs the public interest in a fully open record. *Id.* Petitioner does not oppose the relief sought by this Motion. *Id.* at 13.

We have reviewed the materials Patent Owner seeks to seal, and we have considered Patent Owner’s arguments. The redacted portions of these materials appear to be tailored narrowly to only confidential information. We are persuaded that good cause exists to seal Paper 25 and Exhibits 2005, 2007, 2009, 2013, 2015, 2023, 2025, 2046, 2048, 1027, and 1028.

IPR2017-01781
Patent 8,161,344 B2

In addition, Patent Owner informed the Board via email that certain dates listed in Exhibit 3001 are confidential, and Patent Owner asked the Board to seal that exhibit as well. The document has been sealed. Patent Owner shall confer with Petitioner to create a public version of Exhibit 3001 that redacts only the dates that are confidential and file that document as its own exhibit within five business days of this Order.

ORDER

It is

ORDERED that Patent Owner's Renewed Motion to Seal *is granted* and that Paper 25 and Exhibits 2005, 2007, 2009, 2013, 2015, 2023, 2025, 2046, 2048, 1027, and 1028 shall be maintained under seal; and

FURTHER ORDERED that Patent Owner shall confer with Petitioner to create a public version of Exhibit 3001 that redacts only the dates that are confidential and file that document as its own exhibit within five business days of this Order.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.