

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELESIGN CORPORATION,
Petitioner,

v.

TWILIO INC.,
Patent Owner.

Case IPR2017-01976 (Patent 8,837,465 B2)
Case IPR2017-01977 (Patent 8,755,376 B2)¹

Before ROBERT J. WEINSCHENK, KIMBERLY MCGRAW, and
SCOTT C. MOORE, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

ORDER
Authorizing Motion for Discovery
37 C.F.R. § 42.51

¹ This Order pertains to both of these cases. Therefore, we exercise our discretion to issue a single Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

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I. INTRODUCTION

On May 23, 2018, Judges Weinschenk, McGraw, and Moore held a telephone conference call with counsel for TeleSign Corporation (“Petitioner”) and counsel for Twilio Inc. (“Patent Owner”). A court reporter was present on the conference call. This order summarizes statements made during the conference call. A more complete record may be found in the court reporter’s transcript, which is to be filed by Patent Owner as an exhibit.

II. ANALYSIS

Patent Owner requested authorization to file a motion for discovery regarding four specific documents produced by Petitioner in a related district court case. Patent Owner explained that the requested documents are relevant to objective indicia of nonobviousness. Petitioner responded that the requested documents are not relevant. After hearing the respective positions of the parties, we authorized Patent Owner to file a motion for discovery by May 25, 2018, and we authorized Petitioner to file an opposition to Patent Owner’s motion for discovery by June 1, 2018. To accommodate the briefing schedule for Patent Owner’s motion for discovery, we extended the deadline for Patent Owner’s Response to the Petition from June 1, 2018, to June 8, 2018.

According to Petitioner, the requested documents contain confidential information. The default Protective Order in the Office Patent Trial Practice Guide was “automatically entered into the proceeding upon the filing of a petition for review.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,771 (Aug. 14, 2012). Petitioner indicated, though, that it intends to propose modifications to the default Protective Order. In that regard, the

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parties agreed to meet and confer regarding proposed modifications to the default Protective Order and to file a motion for entry of a protective order by May 25, 2018. We explained that the parties' proposed Protective Order must be filed as an exhibit and must indicate in track changes any proposed modifications to the default Protective Order. In addition, the parties' motion for entry of a protective order must explain specifically why any proposed modifications to the default Protective Order are necessary.

To the extent a party believes that Patent Owner's motion for discovery, Petitioner's opposition, or any accompanying documents contain confidential information, that party must file a motion to seal. The standard for granting a motion to seal is good cause. 37 C.F.R. § 42.54. That standard includes showing that the information addressed in the motion to seal is truly confidential, and that such confidentiality outweighs the strong public interest in having the record open to the public. *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 34, 1–2 (PTAB Mar. 14, 2013). The parties are encouraged to redact confidential information, where possible, rather than seeking to seal entire documents. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012).

We also note that the parties should not submit confidential personal information that clearly has little relevance to the merits of the case. *Garmin Int'l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 37, 6–8 (PTAB Apr. 5, 2013). Examples of confidential personal information include an account number on a check, a social security number, and a driving record. *Id.* Non-useful personal confidential information in a document should be redacted when the document is submitted, and the submission should be accompanied by a paper noting the reasons for the

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redaction. *Id.*

The parties are reminded that confidential information that is subject to a protective order ordinarily becomes public 45 days after final judgment in a trial. *Id.* However, after final judgment in a trial, a party may file a motion to expunge confidential information from the record prior to the information becoming public. 37 C.F.R. § 42.56.

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner is authorized to file a motion for discovery by May 25, 2018;

FURTHER ORDERED that Petitioner is authorized to file an opposition to Patent Owner's motion for discovery by June 1, 2018;

FURTHER ORDERED that no reply is authorized; and

FURTHER ORDERED that the deadline for Patent Owner's Response to the Petition is extended from June 1, 2018, to June 8, 2018.

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