

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FASTENERS FOR RETAIL, INC.,  
Petitioner,

v.

RTC INDUSTRIES, INC.,  
Patent Owner.

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Case IPR2018-00741 (Patent 9,173,505)  
Case IPR2018-00742 (Patent 9,149,132)  
Case IPR2018-00743 (Patent 9,504,321)  
Case IPR2018-00744 (Patent 9,635,957)<sup>1</sup>

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Before PATRICK R. SCANLON, MICHAEL L. WOODS, and  
JASON W. MELVIN *Administrative Patent Judges.*

WOODS, *Administrative Patent Judge.*

ORDER  
Granting Four Motions to Seal in Four Proceedings  
*37 C.F.R. §§ 42.14, 42.54*

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<sup>1</sup> We issue one Order and enter it in each proceeding.

IPR2018-00741 (Patent 9,173,505)  
IPR2018-00742 (Patent 9,149,132)  
IPR2018-00743 (Patent 9,504,321)  
IPR2018-00744 (Patent 9,635,957)

## I. INTRODUCTION

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, the parties filed several motions to seal papers and exhibits filed in connection with a case-dispositive real party-in-interest (“RPI”) issue. *See, e.g.*, Paper 25, 14 (determining that Petitioner failed to identify all RPIs and denying institution of IPR2018-00741 on that basis).<sup>2</sup>

For the reasons that follow, we grant each of these motions in each of the proceedings.

## II. ANALYSIS

The default rule in an *inter partes* review proceeding is that the record, including all papers and exhibits, shall be available to the public. 37 CFR § 42.14. “There is a strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public.” *Garmin Int’l v. Cuozzo Speed Techs., LLC*, IPR2012–00001, slip op. at 1–2 (PTAB Mar. 14, 2013) (Paper 34). 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. *See Garmin*, Paper 34, 2–3. The moving party bears the burden of showing that the relief requested should be granted, and establishing that the information sought to be sealed is confidential information. 37 C.F.R. § 42.20(c).

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<sup>2</sup> Unless otherwise noted, citations to the record will be to IPR2018-00741.

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We address each of the motions separately, below.

*A. Patent Owner's First Motion to Seal (Paper 10)*

RTC Industries, Inc. ("Patent Owner") filed a motion to seal its Preliminary Response (Paper 8, "Prelim. Resp.") and the declaration of Richard Nathan (Ex. 2001) filed in support therewith. Paper 10. In particular, Patent Owner seeks to seal confidential settlement information and confidential communications. *Id.* at 2. Patent Owner also submits a redacted version of its Preliminary Response. *Id.* at 4.

Patent Owner conferred with Petitioner and the parties agree to be bound by the Board's default protective order. *Id.* at 3. Petitioner does not oppose Patent Owner's motion.

Based on our review, we determine that there is good cause for sealing the unredacted version of the Preliminary Response and Exhibit 2001 and for entry of the Board's default protective order. These documents contain confidential information and we find minimal harm to the public's interest in restricting access to them.

*B. Petitioner's First Motion to Seal (Paper 17)*

Fasteners for Retail, Inc. ("Petitioner") filed a motion to seal its Reply to Patent Owner's RPI argument (Paper 15, "Reply") and the declaration of James Conroy (Ex. 1039). Paper 17. Specifically, Petitioner seeks to seal confidential commercial information and information relating to settlement communications. *Id.* at 2. Petitioner further submits a redacted version of

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its Reply and agrees to be bound by the Board's default protective order. *Id.* at 3. Patent Owner does not oppose Petitioner's motion.

Based on our review, we determine that there is good cause for sealing the unredacted version of Petitioner's Reply and Exhibit 1039. These documents contain confidential information and we find minimal harm to the public's interest in restricting access to them.

*C. Patent Owner's Second Motion to Seal (Paper 21)*

Patent Owner also filed a motion to seal its Sur-Reply (Paper 20, "Sur-Reply") in response to Petitioner's Reply and a supplemental declaration of Mr. Nathan (Ex. 2012). Paper 21. As with its first motion, Patent Owner seeks to seal confidential communications and information relating to settlement. *Id.* at 2. Patent Owner further submits a redacted version of its Sur-Reply and agrees to be bound by the Board's default protective order. *Id.* at 3. Petitioner does not oppose Patent Owner's motion.

Based on our review, we determine that there is good cause for sealing the unredacted version of Patent Owner's Sur-Reply and Exhibit 2012. These documents contain confidential information and we find minimal harm to the public's interest in restricting access to them.

*D. Petitioner's Second Motion to Seal (Paper 24)*

Petitioner also filed a motion to seal a second reply (Paper 22, "Sur-Reply #2") filed in response to Patent Owner's Sur-Reply (Paper 20). Paper 24. For reasons similar to those discussed above, Petitioner seeks to seal

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confidential commercial information and information relating to settlement communications. *Id.* at 2. Petitioner further submits a redacted version of its Sur-Reply #2 and agrees to be bound by the Board's default protective order. *Id.* at 3. Patent Owner does not oppose Petitioner's motion.

Based on our review, we determine that there is good cause for sealing the unredacted version of Petitioner's Sur-Reply #2. This document contains confidential information and we find minimal harm to the public's interest in restricting access to it.

### III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's first motion to seal (Paper 10 in IPR2018-00741; Paper 10 in IPR2018-00742; Paper 10 in IPR2018-00743; and Paper 12 in IPR2018-00744) is granted and the Board's default protective order is entered;

FURTHER ORDERED that Petitioner's first motion to seal (Paper 17 in IPR2018-00741; Paper 17 in IPR2018-00742; Paper 16 in IPR2018-00743; and Paper 18 in IPR2018-00744) is granted;

FURTHER ORDERED that Patent Owner's second motion to seal (Paper 21 in IPR2018-00741; Paper 23 in IPR2018-00742; Paper 20 in IPR2018-00743; and Paper 22 in IPR2018-00744) is granted; and

FURTHER ORDERED that Petitioner's second motion to seal (Paper 24 in IPR2018-00741; Paper 26 in IPR2018-00742; Paper 23 in IPR2018-00743; and Paper 25 in IPR2018-00744) is granted.

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