

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC
Petitioner

v.

BRADIUM TECHNOLOGIES LLC
Patent Owner

IPR2018-00952
U.S. Patent 9,253,239

UNOPPOSED RENEWED MOTION TO SEAL

I. Introduction

On December 19, 2019, the Board issued a final written decision, granting motions to seal Exhibits 2008 and 2009 in their entirety. Paper 60, 76. However, the Board also denied (1) a motion to seal Exhibit 2013 in its entirety; (2) a motion to seal a non-redacted version of Exhibit 2004; and (3) denied motions to seal unredacted versions of Preliminary Response (POPR) (Paper 19), Reply to POPR (Paper 25), Sur-Reply to POPR (Paper 30), Patent Owner Response (POR) (Paper 38), and Sur-Reply to POR (Paper 45). *Id.*, 76-78. The parties held a telephone conference with the Board on January 10, 2020 to discuss filing new redacted versions of the documents that addressed the Board's concerns. On January 17, 2020, the Board issued an order allowing Petitioner to file a renewed motion to seal.

II. Requested Relief

The documents reference and cite to certain material that Petitioner produced according to voluntary discovery. That material contains confidential, sensitive commercial information, including closely held information related to Unified's core business. Petitioner submits that the unredacted version of the documents should be sealed because they contain confidential information.

Pursuant to 37 C.F.R. §§ 42.14 and 42.55, Petitioner moves to seal the unredacted documents and to redact the confidential information from the public versions of the documents filed herewith. Patent Owner takes no position regarding

the confidentiality of the materials asserted by Unified to be confidential, but does not oppose the motion.

III. Good Cause Exists

In deciding whether to seal documents, the Board must find “good cause” and must “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.” *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 (April 5, 2013). Here, the balance overwhelmingly favors protecting Unified’s highly confidential information by sealing these limited and targeted redactions. The information Unified seeks to protect has nothing to do with patentability, but rather involves Unified’s status as the sole real party-in-interest and relates to its confidential business information. For this reason, the public interest in having access to the unredacted versions of the documents is minimal, while the public interest is well-served in keeping such business information readily available and exchangeable between parties based on voluntary discovery, without the fear of incidental public exposure of confidential business information.

Disclosure of Unified’s highly confidential business information would provide Unified’s competitors and would-be business rivals with a roadmap for replicating Unified’s unique, valuable business model and would reveal contractual business information between two parties produced voluntarily under a joint

protective order. Accordingly, the public interest would be served by maintaining the confidentiality of this information. Thus, good cause exists for sealing the confidential information in the documents discussed below. Petitioner hereby requests that the unredacted version of these documents be sealed in their entireties and the confidential information be redacted in the corresponding public versions.

A. Exhibit 2013

Exhibit 2013 is Petitioner’s Voluntary Interrogatory Responses of Kevin Jakel and includes both confidential and nonconfidential information. Unified previously requested that Exhibit 2013 be redacted in its entirety, but has now prepared a public version (Exhibit 1032) containing only targeted redactions. Specifically, Exhibit 2013 includes a list of Unified’s members in its “Content Delivery” NPE Zone. Ex. 2013, 6-12. Although the document notes that Unified’s members listed in italics are public, the fact that these members are part of the “Content Delivery” NPE Zone is confidential. In addition, Exhibit 2013 also includes percentages related to Unified’s revenue and expenses. *Id.*, 19-20. These numbers are not public and are sensitive to Unified’s business financial information and constitute highly confidential business information.

B. Exhibit 2004

Exhibit 2004 is a deposition transcript of Kevin Jakel and includes both confidential and nonconfidential information. Unified previously requested that

Exhibit 2004 be redacted, but has now prepared a new public version (Exhibit 1033) with more targeted redactions to keep highly confidential information from the public. In particular, the redactions are targeted to protect information related to Unified's core business, membership terms, business strategy, and business financial information and constitutes highly confidential business information, as well as trade secrets. For example, the redactions relate to discussions of contracts, strategies, finances, and confidential membership information.

C. Preliminary Response (Paper 19), Reply to Preliminary Response (Paper 25), Sur-Reply to Preliminary Response (Paper 30), Patent Owner Response (Paper 38), Sur-Reply to POR (Paper 45)

The POPR, Reply to POPR, Sur-Reply to POPR, POR, and Sur-Reply to POR each include both confidential and nonconfidential information. During the telephone conference with the Board, the Board indicated a concern that the fact that Apple is a member was redacted from some documents, but not others. During the call, Petitioner explained that this fact became public during the course of the IPR proceeding. Therefore, this fact has not been redacted from the new public versions prepared by Petitioner. In addition, these new public versions only includes more targeted redactions to keep highly confidential information from the public. In particular, these documents contain citations to confidential information of (1) Exhibit 2004 that discusses Unified's confidential financial information, business strategy, and relationship of certain members to a particular zone; (2)

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