

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

SEVEN NETWORKS, LLC,
Patent Owner.

Case IPR2018-01047 (Patent 9,516,129 B2)
Case IPR2018-01049 (Patent 9,553,816 B2)
Case IPR2018-01101 (Patent 9,553,816 B2)
Case IPR2018-01117 (Patent 9,351,254 B2)¹

Before THU A. DANG, KARL D. EASTHOM, JONI Y. CHANG,
THOMAS L. GIANNETTI, ROBERT J. WEINSCHENK, and
JACQUELINE T. HARLOW, *Administrative Patent Judges*.²

EASTHOM, *Administrative Patent Judge*.

DECISION
Granting Motions to Seal and Expunge
37 C.F.R. §§ 42.14, 42.54, 42.56

¹ This Decision applies to each of the listed cases. The parties are not authorized to use this caption for subsequent papers.

² This is not a decision by an expanded panel of the Board. Judges Dang, Easthom, and Harlow are paneled in IPR2018-01047, -01049, and -01101. Judges Chang, Giannetti, and Weinschenk are paneled in IPR2018-01117.

IPR2018-01047 (Patent 9,516,129 B2)
IPR2018-01049 (Patent 9,553,816 B2)
IPR2018-01101 (Patent 9,553,816 B2)
IPR2018-01117 (Patent 9,351,254 B2)

I. INTRODUCTION

Petitioner filed a Motion to Seal (Paper 14) portions of its Reply (Paper 15) to the Preliminary Response and Exhibits 1040, 1043, 1047, 1048, and 1051.^{3,4} Patent Owner filed a Motion to Seal (Paper 21) portions of its Sur-Reply (Paper 19) to the Reply and Exhibits 2056–2058.⁵ Neither party filed an opposition to the other party’s Motion to Seal. Petitioner filed an Unopposed Motion to Expunge all the sealed documents. Paper 36. For the following reasons, the Motions to Seal and Expunge are *granted*.

II. ANALYSIS

There is a strong public policy that favors making information filed in an *inter partes* review open to the public. *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, Case IPR2012-00001, slip op. 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

³ Unless otherwise noted, we refer to the motions and exhibits filed in IPR2018-01047. With one exception, the parties filed similar motions, and exhibits with the same Exhibit numbers in IPR2018-01049, -01101, and -01117. In IPR2018-01049, Patent Owner filed a confidential version of the Sur-reply (Paper 17) but did not file a motion to seal that paper. Nevertheless, we consider a motion to seal the Sur-reply as having been filed in IPR2018-01049, based the filing of the confidential version of the Sur-Reply and Motion to Expunge (Paper 33) in IPR2018-01049, and based on the filing of the relevant Motions to Seal in the other three cases.

⁴ Petitioner filed a public redacted version of its Reply (Paper 16) and a public redacted version of Exhibit 1040.

⁵ Patent Owner filed a public redacted version of its Sur-Reply (Paper 20) and public redacted versions of Exhibit 2056–2058.

IPR2018-01047 (Patent 9,516,129 B2)
IPR2018-01049 (Patent 9,553,816 B2)
IPR2018-01101 (Patent 9,553,816 B2)
IPR2018-01117 (Patent 9,351,254 B2)

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*, Case IPR2012-00001, slip op. 2–3 (Paper 34).

The parties agreed to a Revised Protective Order. Paper 14, 2; Paper 21, 2. The agreed Revised Protective Order (Paper 14, Appendix A; Paper 21, Attachment A) is entered in each of the above-listed proceedings.

The parties argue that the Reply, Sur-Reply, and Exhibits 1040, 1043, 1047, 1048, 1051, and 2056–58, in each of the above-listed proceedings, contain confidential information relating to legal agreements and communications between Petitioner and Samsung. Paper 14, 2–4; Paper 21, 6–7. The parties also argue that the public’s interest in the confidential information is minimal because it relates to real party in interest and privity issues and otherwise is not relevant to the merits of the case. Paper 14, 4; Paper 21, 4.

Also, the Decision on Institution (Paper 22) discusses some of the confidential information, and, thus, was sealed. The parties jointly filed a proposed redacted version of the Decision on Institution (Exhibit 1056), which was entered in the public record.

The parties have shown that good cause exists to seal and expunge the identified information.

III. ORDER

It is hereby

ORDERED that the Motions to Seal and Expunge in IPR2018-01047 (Papers 14, 21 and 36), IPR2018-01049 (Paper 14 and 33) IPR2018-01101 (Papers 14, 19, and 34), and IPR2018-01117 (Papers 16, 19, and 33) are

IPR2018-01047 (Patent 9,516,129 B2)
IPR2018-01049 (Patent 9,553,816 B2)
IPR2018-01101 (Patent 9,553,816 B2)
IPR2018-01117 (Patent 9,351,254 B2)

granted;

FURTHER ORDERED that the agreed Revised Protective Order (e.g., IPR2018-01047, Paper 14, Appendix A) is entered in each of the above-listed cases;

FURTHER ORDERED that Exhibits 1043, 1047, 1048, and 1051, and the confidential versions of Exhibits 1040 and 2056–58, are sealed and shall be expunged in each of the above-listed cases;

FURTHER ORDERED that the confidential versions of Petitioner's Reply to the Preliminary Response in IPR2018-01047 (Paper 15), IPR2018-01049 (Paper 15), IPR2018-01101 (Paper 15), and IPR2018-01117 (Paper 13) are sealed and shall be expunged;

FURTHER ORDERED that the confidential versions of Patent Owner's Sur-Reply in IPR2018-01047 (Paper 19), IPR2018-01049 (Paper 17), IPR2018-01101 (Paper 17), and IPR2018-01117 (Paper 17) are sealed and shall be expunged; and

FURTHER ORDERED that the confidential versions of the Decisions on Institution in IPR2018-01047 (Paper 22), IPR2018-01049 (Paper 19), IPR2018-01101 (Paper 20), and IPR2018-01117 (Paper 20) shall be expunged.

IPR2018-01047 (Patent 9,516,129 B2)
IPR2018-01049 (Patent 9,553,816 B2)
IPR2018-01101 (Patent 9,553,816 B2)
IPR2018-01117 (Patent 9,351,254 B2)

PETITIONER:

Erika H. Arner
Rachel L. Emsley
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
erika.arners@finnegan.com
rachel.emsley@finnegan.com

PATENT OWNER:

Kenneth J. Weatherwax
Edward Hsieh
Parham Hendifar
LOWENSTEIN & WEATHERWAX LLP
weatherwax@lowensteinweatherwax.com
hsieh@lowensteinweatherwax.com
hendifar@lowensteinweatherwax.com