

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD. and  
SAMSUNG ELECTRONICS AMERICA, INC.,  
Petitioner,

v.

SEVEN NETWORKS, LLC,  
Patent Owner.

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Case IPR2018-01106  
Patent 9,516,127 B2

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Before THU A. DANG, JONI Y. CHANG, and  
JACQUELINE T. HARLOW, *Administrative Patent Judges*.

CHANG, Administrative Patent Judge.

DECISION  
Granting-in-part Motion to Expunge  
*37 C.F.R. § 42.56*

## INTRODUCTION

Petitioner filed a Motion to Expunge (Paper 32, “Motion” or “Mot.”) the confidential versions of Petitioner’s Reply (Paper 15), Patent Owner’s Sur-reply (Paper 18), the Decision on Institution (Paper 21), and Exhibits 1030–1035, 1047, 1048, 1051, 2100, and 3001.<sup>1</sup> Patent Owner does not oppose the Motion. For the following reasons, the Motion is *granted*.

## ANALYSIS

“Confidential information that is subject to a protective order ordinarily would become public 45 days after denial of a petition to institute a trial or 45 days after final judgment in a trial.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012) (“Trial Practice Guide”). However, “[a]fter denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record.” 37 C.F.R. § 42.56. This “rule balances the needs of the parties to submit confidential information with the public interest in maintaining a complete and understandable file history for public notice purposes.” Trial Practice Guide, 77 Fed. Reg. at 48,761.

Petitioner submits that expungement is appropriate because “this proceeding was terminated based on a settlement” and “without reliance upon details revealed by documents . . . under seal.” Mot. 2–3. According

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<sup>1</sup> The record includes public redacted versions of Petitioner’s Reply (Paper 14), Patent Owner’s Sur-reply (Paper 19), the Decision on Institution (Paper 30), and Exhibits 1030 and 1035.

to Petitioner, “the sealed confidential documents have no meaningful impact on the ultimate resolution of this proceeding.” *Id.* at 3. Thus, Petitioner contends that “the public interest is far outweighed by the interest of the parties to preserve the confidentiality of these documents.” *Id.*

We determine that it is appropriate to expunge the confidential versions of Petitioner’s Reply (Paper 15), Patent Owner’s Sur-reply (Paper 18), the Decision on Institution (Paper 21), and Exhibits 1030–1035, 1047, 1048, and 1051, because: (1) the confidential information relates to real party in interest and privity issues and otherwise is not related to the merits of the case; and (2) the final judgment in this proceeding was based on the parties’ settlement. Therefore, the Motion is *granted* with respect to the confidential versions of Petitioner’s Reply (Paper 15), Patent Owner’s Sur-reply (Paper 18), the Decision on Institution (Paper 21), and Exhibits 1030–1035, 1047, 1048, and 1051.

However, we determine that it is not appropriate to expunge Exhibits 2100 and 3001. As discussed above, the final judgment in this proceeding was based on the parties’ settlement (Paper 29, 2–3), and Exhibit 2100 is a copy of the parties’ Settlement Agreement. Because the parties submitted Exhibit 2100 with their Joint Motion to Terminate in order to comply with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b) (Paper 27, 5), it would not be appropriate to expunge Exhibit 2100 from the record. Moreover, we previously granted the parties’ request to treat Exhibit 2100 as business confidential information to be kept separate from the patent file pursuant to 37 C.F.R. § 42.74(c). Paper 29, 3. In addition, we authorized Petitioner to file a motion to seal Exhibit 3001, and explained that the status

of Exhibit 3001 will be changed to “public” if Petitioner does not timely file a motion to seal. Paper 13, 2–3, 5. Neither party filed a motion to seal Exhibit 3001. Paper 31, 2. Therefore, the Motion is *denied* with respect to Exhibits 2100 and 3001, and the status of Exhibit 3001 is changed to “public.” Paper 13, 3, 5.

### ORDER

It is hereby

ORDERED that the Motion to Expunge is *granted* with respect to the confidential versions of Petitioner’s Reply (Paper 15), Patent Owner’s Sur-reply (Paper 18), the Decision on Institution (Paper 21), and Exhibits 1030–1035, 1047, 1048, and 1051;

FURTHER ORDERED that the *confidential versions* of Petitioner’s Reply (Paper 15), Patent Owner’s Sur-reply (Paper 18), the Decision on Institution (Paper 21), and Exhibits 1030–1035, 1047, 1048, and 1051 are expunged from the record in this proceeding;

FURTHER ORDERED that the Motion to Expunge is *denied* with respect to Exhibits 2100 and 3001; and

FURTHER ORDERED that the status of Exhibit 3001 is changed to “public.”

IPR2018-01106  
Patent 9,516,127 B2

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