

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THERMO FISHER SCIENTIFIC, INC.,
Petitioner,

v.

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA,
Patent Owner.

Case IPR2018-01367 (Patent 8,835,113 B2)
Case IPR2018-01368 (Patent 8,835,113 B2)
Case IPR2018-01369 (Patent 8,110,673 B2)
Case IPR2018-01370 (Patent 8,110,673 B2)

Before MICHELLE N. ANKENBRAND, *Acting Vice Chief Administrative Patent Judge*, ERICA A. FRANKLIN and JOHN E. SCHNEIDER, *Administrative Patent Judges*.

FRANKLIN, *Administrative Patent Judge*.

DECISION¹
Granting Petitioner's Motions to Expunge
37 C.F.R. § 42.56

¹ This Order addresses issues that are common to each case.

IPR2018-01367 (Patent 8,835,113 B2)
IPR2018-01368 (Patent 8,835,113 B2)
IPR2018-01369 (Patent 8,110,673 B2)
IPR2018-01370 (Patent 8,110,673 B2)

In each of the above-captioned proceedings, with our authorization, Petitioner filed a motion to expunge Exhibits 1048 and 1051–56.² Paper 12.³

Previously, Petitioner filed a Combined Motion for Entry of Modified Protective Order and Motion to Seal Confidential Information (“combined motion”) in each proceeding, wherein Petitioner sought to seal Exhibits 1048 and 1051–1056, in their entirety. Paper 3. We denied each combined motion without prejudice upon determining that they did not comply with our rules, because the motion did not include a “certification that the moving party has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute,” as required by 37 C.F.R. § 42.54. Paper 11, 2–3. In that Order, we invited Petitioner to renew the combined motions, including the required certification, after meeting and conferring with Patent Owner in good faith. *Id.* at 3. Additionally, we explained that we would exercise our discretion to maintain the exhibits under a provisional seal. *Id.*

As we had denied the Petition in each proceeding, Paper 10, we also reminded Petitioner that “[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,” Paper 11, 3 (quoting 37 C.F.R. § 42.56).

² We omit the “TFS” prefix that Petitioner includes with its exhibit numbers.

³ Citations to paper numbers refer to those filed in IPR2018-01367. A similar paper was filed in each of IPR2018-01368, IPR2018-01369, and IPR2018-01370.

IPR2018-01367 (Patent 8,835,113 B2)
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IPR2018-01370 (Patent 8,110,673 B2)

Petitioner did not respond to our invitation to renew its combined motion in each proceeding. However, Petitioner timely filed motions to expunge Exhibits 1048 and 1051–1056. Paper 12. In the motions, Petitioner explains sufficiently how those exhibits contain confidential information in the form of “competitively-sensitive . . . research, development, and commercial activities.” *Id.* at 2–3. Petitioner also asserts, and we confirm, that Exhibits 1048 and 1051–1056 were not cited or discussed in the Board’s Decisions Denying Institution in these proceedings. *Id.* at 3; Paper 10. Thus, we agree with Petitioner that the confidential information contained in Exhibits 1048 and 1051–1056 is not needed to understand the Board’s Decisions. Paper 12, 3.

Additionally, Petitioner confirms that Patent Owner indicated that it would not oppose the motions. *Id.* at 1. Indeed, Patent Owner has not opposed the motions.

Based upon our consideration of the facts and the arguments presented in Petitioner’s unopposed motions to expunge, we grant Petitioner’s request to expunge Exhibits 1048 and 1051–1056 in each of the above-captioned proceedings.

ORDER

In accordance with the foregoing, it is hereby:

ORDERED that Petitioner’s Motion to Expunge Exhibits 1048 and 1051–1056 in each of the above-captioned proceedings is *granted*; and

IPR2018-01367 (Patent 8,835,113 B2)
IPR2018-01368 (Patent 8,835,113 B2)
IPR2018-01369 (Patent 8,110,673 B2)
IPR2018-01370 (Patent 8,110,673 B2)

FURTHER ORDERED that *all versions*⁴ of Exhibits 1048 and 1051–1056 in each of the above-captioned proceedings shall be expunged from the record.

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⁴ Petitioner filed multiple versions of the exhibits with different confidentiality designations.