

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.

Petitioner

- vs. -

SPEAKWARE, INC.

Patent Owner

IPR2019-00495

U.S. Patent 6,397,186

MOTION TO EXPUNGE CONFIDENTIAL INFORMATION

Pursuant to 37 C.F.R. § 42.56, Petitioner, Unified Patents Inc. (“Unified” or “Petitioner”), hereby requests that certain confidential information in the record be expunged. Specifically, Petitioner respectfully submits that Exhibit 1025 (Paper 15), Confidential Agreement between the parties, should be expunged from the record as this exhibit contains both Petitioner’s and Patent Owner’s highly confidential business information.

This motion is being timely filed within 45 days from the Decision terminating the proceeding (Paper 16). *See* Office Patent Trial Practice Guide (“Trial Practice Guide”), 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012). For the reasons set forth below, Petitioner requests that the Confidential Document be expunged.

I. Applicable Legal Standards

37 C.F.R. § 42.56 provides that “[a]fter a 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 in the record.” Likewise, the Trial Practice Guide states, in pertinent part, that “There is an expectation that information will be made public where the existence of the information is referred to . . . in a final written decision following a trial. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public.” Trial Practice Guide, 77 Fed. Reg. at 48761.

II. Reasons for Relief Requested

A. Procedural Background

Petitioner and Patent Owner filed a Joint Motion to Keep Confidential and Separate Under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c) in this proceeding (Paper 14), requesting that the Board maintain the Confidential Document as business confidential information and kept separate from the file. The Confidential Document contains information related to a Confidential Agreement between the parties and includes Petitioner's members' identities.

B. Good Cause Exists for Expunging the Confidential Documents

The Confidential Document contains Petitioner's highly confidential business information, which Petitioner guards in order to protect its own business as well as its members. Specifically, the Confidential Documents contain information relating to Petitioner's membership list. In addition, the Confidential Document contains Petitioner's and Patent Owner's highly confidential business information related to a Confidential Agreement between the parties.

In other proceedings, the Board has granted motions to seal Petitioner's confidential information, finding that Petitioner had "shown good cause to seal the identities of its members." *See Unified Patents Inc. v. Dragon Intellectual Property, LLC*, IPR2014-01252, Paper 40 at 6–7 (PTAB Feb. 27, 2015).

There is no public interest in now making the Confidential Document publicly

available. The Confidential Document does not relate to the merits of the case.

Rather it is merely a Confidential Agreement between the parties.

III. Conclusion

Because the parties have jointly requested that the Confidential Document be kept confidential and separate from the file, because other panels have found that similar information should be maintained under seal, and because the Confidential Document is not relevant to the merits of the case, Petitioner respectfully requests that the Board protect Petitioner's and Patent Owner's highly confidential business information and expunge the Confidential Document pursuant to 37 C.F.R. § 42.56.

Respectfully submitted,

September 19, 2019

/s/ Jonathan R. Bowser

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Counsel for Petitioner
Unified Patents Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Unified Patents, Inc. § Petition for *Inter Partes* Review
Petitioner §
 § IPR2019-00495
 § U.S. Patent No. 6,397,186
 §

CERTIFICATE OF SERVICE

The undersigned certifies, in accordance with 37 C.F.R. § 42.6, that service was made on the Patent Owner as detailed below.

Date of service September 19, 2019

Manner of service Electronic Service by E-Mail

Documents served Petitioner's Motion to Expunge

Persons served Sean A. Luner (sean@dovel.com)
 Simon Franzini (simon@dovel.com)

/s/ Jonathan R. Bowser
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