

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS LLC,  
Petitioner,

v.

VELOS MEDIA, LLC,  
Patent Owner.

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Case IPR2019-00757  
Patent 9,930,365 B2

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Before MONICA S. ULLAGADDI, JASON MELVIN and  
AARON W. MOORE, *Administrative Patent Judges*.

ULLAGADDI, *Administrative Patent Judge*.

ORDER  
*Granting Petitioner's Motions to Seal*  
37 C.F.R. §§ 42.14, 42.54

## I. BACKGROUND

On December 3, 2019, Petitioner filed a Motion for Protective Order, requesting entry of the Board’s default Protective Order<sup>1</sup> (Ex. 1022). Paper 17. On January 29, 2020, we authorized entry of the default Protective Order. Paper 22.

On April 10, 2020, Unified Patents, LLC (“Petitioner”) filed a Motion to Seal, seeking to seal Petitioner’s Reply (Paper 26, “Reply”) and Exhibits 2113, 2114, 2138, 2152, and 2161. Paper 25 (“Reply Mot.”). Along with its motion, Petitioner filed a redacted version of the Reply (Ex. 1023, “Redacted Reply”), as well as redacted versions of the exhibits, as summarized in the table below. Petitioner indicates that Patent Owner does not oppose. Reply Mot. 3.

On April 15, 2020, Petitioner filed a Motion to Seal, seeking to seal Patent Owner’s Response (Paper 18, “PO Resp.”) and the exhibits listed in the table below. Paper 27 (“PO Resp. Mot.”). Along with its motion, Petitioner filed a redacted version of the Patent Owner’s Response (Ex. 1024, “Redacted PO Response” or “Redacted PO Resp.”), as well as redacted versions of the exhibits, as summarized in the table below. Petitioner indicates that Patent Owner does not oppose. PO Resp. Mot. 3–4.

## II. ITEMS TO BE SEALED

The table below summarizes the papers and exhibits sought to be sealed, as well as the corresponding redacted exhibits.

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<sup>1</sup> Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>, 117–122 (App. B) (“TPG”).

<b>Paper or Exhibits to be Sealed</b>	<b>Corresponding Redacted Exhibits</b>
<i>Membership Agreement and Subscription Form</i>	
Exhibit 2152 Member Agreement and Subscription Form	None
<i>Communications</i>	
Exhibit 2158: Mass Email Titled “Unified Files IPR Against US 9,338,449 Owned by Velos Media LLC”	Ex. 1028
Exhibit 2102: 9/4/17 Email from Kevin Jakel with Attachments	Ex. 1029
Exhibit 2103: 9/14/17 Email from Shawn Ambwani with Attachments	Ex. 1030
Exhibit 2109: 11/24/17 Email from Shawn Ambwani with Attachments	Ex. 1031
Exhibit 2111: 12/3/17 Email from Kevin Jakel with Attachments	Ex. 1032
Exhibit 2113: 1/18/18 Email from Shawn Ambwani with Attachments	Ex. 1033
Exhibit 2114: 1/19/18 Email from Shawn Ambwani with Attachments	Ex. 1034
Exhibit 2122: 2/3/18 Email from Shawn Ambwani with Attachments	Ex. 1035
Exhibit 2127: 2/9/18 Email from Shawn Ambwani with Attachments	Ex. 1036
Exhibit 2132: 1/2/18 Email from Shawn Ambwani with Attachments	Ex. 1037
<i>Interrogatory Responses and Testimony of Kevin Jakel</i>	
Exhibit 2151: Petitioner’s Supplemental Second Voluntary Interrogatory Responses	Ex. 1025
Exhibit 2161: Transcript of First Deposition of Kevin Jakel	Ex. 1026
Exhibit 2138: Transcript of Second Deposition of Kevin Jakel	Ex. 1027
<i>Patent Owner Response and Petitioner Reply</i>	
Paper 18: Patent Owner’s Response	Ex. 1024
Paper 26: Petitioner’s Reply	Ex. 1023

### III. PRINCIPLES OF LAW

A motion to seal may only be granted on a showing of good cause. 37 C.F.R. § 42.54(a). In general, the Board’s “rules aim to 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.” TPG at 19. The rules identify confidential information as “trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54). Applying the rules, the Board has required that

a movant to seal must demonstrate adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.

*Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 4 (PTAB Jan. 19, 2018) (designated informative July 10, 2018); *see also Corning Optical Commc ’ns RF, LLC, v. PPC Broadband, Inc.*, IPR2014-00440, Paper 46 at 2 (PTAB April 6, 2015) (“Material is not confidential business information simply because it relates to an activity of a business.”).

#### IV. PETITIONER'S ARGUMENTS

Petitioner argues that the exhibits set forth above were “produced subject to the agreed-to Protective Order.” PO Resp. Mot. 3.<sup>2</sup> According to Petitioner, each exhibit “include[s] statements that contain confidential, sensitive commercial information, including closely held information related to Unified’s core business.” *Id.* Petitioner notes that the “Patent Owner Response (Paper 18) references and cites to confidential information included in the [exhibits] listed above.” *Id.* Aside from the Membership Agreement and Subscription Form (Ex. 2152) that Petitioner seeks to seal in its entirety, Petitioner provides redacted versions for each exhibit sought to be sealed. *Id.* at 9–10; *supra* § II. Petitioner contends that “the balance overwhelmingly favors protecting Unified’s highly confidential information,” because “[t]he information Unified seeks to protect has nothing to do with patentability, but rather involves Unified’s status as the real party in interest.” PO Resp. Mot. 6. Petitioner argues that, accordingly, the public interest in having access to the exhibits 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.” *Id.* at 7. Petitioner further argues that “[i]dentical or similar confidential information held by Unified has been sealed by the Board in prior cases.” *Id.* (citing *Unified Patents, Inc. v. Uniloc 2017 LLC*, IPR2017-

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<sup>2</sup> Where appropriate, we refer to Petitioner’s Motion to Seal Patent Owner’s Response as the exhibits sought to be sealed subsume the exhibits set forth in Petitioner’s Motion to Seal Petitioner’s Reply. *Compare* Reply Mot. with PO Resp. Mot. There is significant overlap in the arguments set forth the motions, as well. *Id.*

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