

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTUITIVE SURGICAL, INC.,
Petitioner,

v.

ETHICON LLC,
Patent Owner.

IPR2019-00991
Patent 8,602,287 B2

Before JOSIAH C. COCKS, ZHENYU YANG, and
JOHN E. SCHNEIDER, *Administrative Patent Judges*.

YANG, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Renewed Motion to Seal
37 C.F.R. § 42.55

Patent Owner filed a Renewed Motion to Seal, seeking to seal portions of Exhibits 1020, 1021, 2003, 2004, 2008, 2009, 2267, and 2299. Paper 46. Patent Owner's Motion is granted.

There is a strong public policy for making all information filed in an *inter partes* review open to the public, especially because the proceeding determines the patentability of claims in an issued patent and, therefore, affects the rights of the public. Generally, all papers filed in an *inter partes* review shall be made available to the public. *See* 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14. Our rules, however, “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.” Consolidated Patent Trial Practice Guide 19. Thus, a party may move to seal certain information (37 C.F.R. § 42.14); but only “confidential information” is protected from disclosure (35 U.S.C. § 326(a)(7)). Confidential information means trade secret or other confidential research, development, or commercial information. 37 C.F.R. § 42.2.

The standard for granting a motion to seal is “for good cause.” 37 C.F.R. § 42.54(a). The party moving to seal bears the burden of proof and must explain why the information sought to be sealed constitutes confidential information. 37 C.F.R. § 42.20(c).

Previously, the parties sought, and we agreed, to seal in their entirety Exhibits 2007, 2010–2153, 2155–2163, 2165–2182, 2184–2210, 2213–2264, 2266, 2268–2298, 2300, 2301, and 2303, and the redacted portions of Patent Owner's Response (Paper 17), Petitioner's Reply (Paper 26), Patent Owner's Sur-reply (Paper 35), and Exhibits 1023 and 2005. Paper 48, 43–45. We, however, denied without prejudice to seal in their entirety Exhibits 1020,

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1021, 2003, 2004, 2008, 2009, 2267 and 2299,¹ because no redacted public version was filed. *Id.* at 45. We invited Patent Owner to file a renewed motion to seal any of these Exhibits, with a narrowly redacted public version of each document sought to be sealed. *Id.* Patent Owner has done so in a timely fashion. *See* Paper 46.

Upon considering the content of the Exhibits Patent Owner seeks to seal, along with Patent Owner's representations as to the confidentiality of the information contained therein, we determine that there is good cause for sealing the unreacted version of Exhibits 1020, 1021, 2003, 2004, 2008, 2009, 2267, and 2299.

ORDER

Accordingly, it is

ORDERED that Patent Owner's Renewed Motion to Seal (Paper 46) is granted.

¹ These are deposition transcripts and declarations of Patent Owner's expert and certain fact witnesses. Paper 48, 43–45.

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FOR PETITIONER:

Steven Katz
John Phillips
Ryan O'Connor
FISH & RICHARDSON P.C.
katz@fr.com
phillips@fr.com
oconnor@fr.com

FOR PATENT OWNER:

Anish Desai
Elizabeth Weiswasser
Adrian Percer
Christopher Marando
Christopher Pepe
Brian Ferguson
WEIL, GOTSHAL, & MANGES LLP
anish.desai@weil.com
Elizabeth.weiswasser@weil.com
Adrian.percer@weil.com
Christopher.marando@weil.com
Christopher.pepe@weil.com
brian.ferguson@weil.com