

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
Motion to Unseal
37 C.F.R. § 42.5

Patent Owner filed a Motion to Unseal Portions of the Confidential Final Written Decision (Paper 43) and Confidential Exhibits 2003, 2004, and 2014. Paper 52 (“Mot.”). Patent Owner’s Motion is granted.

Previously, we granted the parties’ motions to seal certain papers and exhibits, including Exhibits. 2003, 2004, and 2014. Paper 48, 43–45; Paper 49. We also issued a confidential version and a redacted public version of the Final Written Decision. Papers 43, 48.

Patent Owner filed a Notice of Appeal, seeking appellate review of the Final Written Decision. Paper 50. Thus, jurisdiction over this proceeding has been transferred to the appellate court. *Loshbough v. Allen*, 359 F.2d 910, 912 (CCPA 1966). Nonetheless, we may “exercise a purely ministerial function in [our] administrative capacity.” *Id.* Unsealing certain confidential information is such a purely ministerial function.

In its Motion, Patent Owner states that upon further review, it has determined that certain materials that it previously designated as confidential are no longer confidential. Mot. 1. Patent Owner attaches as Exhibits A, B, C, and D to the Motion, respectively, proposed new public versions of the Final Written Decision and Confidential Exhibits 2003, 2004, and 2014.

Our 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.” Consolidated Patent Trial Practice Guide 19. Because, as Patent Owner correctly argues, “the public has an interest in less confidentiality designations” (Mot. 1), we grant Patent Owner’s Motion to Unseal.

ORDER

Accordingly, it is

ORDERED that Patent Owner's Motion to Unseal Portions of the Confidential Final Written Decision (Paper 43) and Confidential Exhibits 2003, 2004, and 2014 is granted; and

FURTHER ORDERED that Patent Owner shall file separately the new public version of the Final Written Decision as a paper and the new public version of Confidential Exhibits 2003, 2004, and 2014 as exhibits.

IPR2019-00991
Patent 8,602,287 B2

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