

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

RED.COM, LLC,
Patent Owner.

Case IPR2019-01064 (Patent 9,230,299 B2)
Case IPR2019-01065 (Patent 9,245,314 B2)

Before BRIAN J. McNAMARA, J. JOHN LEE, and JASON M. REPKO,
Administrative Patent Judges.

REPKO, *Administrative Patent Judge.*

ORDER

Granting Patent Owner's Motion to Expunge Sealed Material
37 C.F.R. § 42.56

Patent Owner filed a motion to expunge the unredacted version of Exhibit 2010, which contains confidential information and is subject to the protective order in these cases. Paper 18 (“Mot.”).¹ Petitioner does not oppose. Mot. 1. For the reasons below, we *grant* the motion.

Because sealed information ordinarily becomes publicly available after denial of a petition to institute a trial or after final judgment in a trial, a party that wants to keep the information confidential may file a motion to expunge it from the record. USPTO, *Patent Trial and Appeal Board Consolidated Trial Practice Guide* 22 (Nov. 20, 2019), <http://www.uspto.gov/TrialPracticeGuideConsolidated> (“Practice Guide”); 37 C.F.R. § 42.56. The rule balances the public’s interest in maintaining a complete and understandable file history and the parties’ need to submit confidential information. Practice Guide 22.

We did not rely on the confidential information in Exhibit 2010 in the Decision on Institution in either case. *See* IPR2019-01064, Paper 17 (denying institution); IPR2019-01065, Paper 17 (denying institution). And Patent Owner’s reasons for expunging the exhibit are appropriate. *See* Mot. 1–2. Thus, we find here that the public’s interest in being able to access this information does not outweigh Patent Owner’s need to protect their confidential information.

Accordingly, we grant Patent Owner’s request to expunge the unredacted version of Exhibit 2010.

¹ Patent Owner filed similar motions in IPR2019-01064 and IPR2019-01065. *Compare* IPR2019-01064, Paper 18, *with* IPR2019-01065, Paper 18. In this Order, we refer to the papers in IPR2019-01064 for brevity.

Case IPR2019-01064 (Patent 9,230,299 B2)

Case IPR2019-01065 (Patent 9,245,314 B2)

ORDER

It is

ORDERED that Patent Owner's motion to expunge is *granted*;

and

FURTHER ORDERED that the unredacted version of Exhibit 2010 is expunged from the record in IPR2019-01064 and IPR2019-01065.

Case IPR2019-01064 (Patent 9,230,299 B2)

Case IPR2019-01065 (Patent 9,245,314 B2)

FOR PETITIONER:

Michael Parsons

Andrew Ehmke

Jordan Maucotel

HAYNES AND BOONE, LLP

michael.parsons@haynesboone.com

andy.ehmke.ipr@haynesboone.com

jordan.maucotel@haynesboone.com

FOR PATENT OWNER:

Joseph Re

Douglas Muehlhauser

KNOBBE, MARTENS, OLSON & BEAR, LLP

2jrr@knobbe.com

2dgm@knobbe.com