

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC
Petitioner,

v.

IDEAHUB INC.,
Patent Owner.

IPR2020-00702
Patent 9,641,849 B2

Before BRYAN F. MOORE, MONICA S. ULLAGADDI, and
SCOTT E. BAIN, *Administrative Patent Judges*.

BAIN, *Administrative Patent Judge*.

Decision

Granting Entry of Protective Order and Motions to Seal
37 C.F.R. §§ 42.5, 42.14, 42.54

INTRODUCTION

Petitioner Unified Patents, LLC (“Petitioner”) moves for entry of a Protective Order agreed upon by the parties, attached to Petitioner’s motion as Exhibit 1015. Paper 21. The parties’ proposed Protective Order differs from the Board’s default protective order in one primary respect, in that it “prohibits in-house counsel or other party employees from accessing certain classes of confidential information – designated HIGHLY CONFIDENTIAL—ATTORNEYS’ EYES ONLY.” *Id.* at 1. Petitioner also filed unopposed motions to seal Exhibits 2004–2009, Patent Owner’s Response (Paper 17), and Petitioner’s Reply (Paper 25) pursuant to the proposed Protective Order, and has submitted redacted versions of those documents. Paper 20 (Unopposed Motion to Seal); Paper 27 (Unopposed Second Motion to Seal).

DISCUSSION

A party seeking to protect confidential information may seek entry of a protective order in a proceeding before the Board. *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 34 (PTAB Mar 14, 2013). Upon a showing of good cause, the Board may enter a Protective Order to protect from public disclosure such confidential information as disclosed by a party during the course of a proceeding before the Board. 37 CFR § 42.54. Petitioner asserts that the modifications to the Board’s default protective order are necessary and good cause exists to enter the parties’ agreed-upon proposed Protective Order. Paper 21, 1. Petitioner’s unopposed motion describes the confidential business information contained in the documents subject to its motions, why disclosure beyond the proposed Protective Order could harm its business, and why the narrow proposed changes to the

Board's default protective order are needed. *Id.* Petitioner further notes that the proposed changes to the Protective Order do not affect access by employees and representatives of the United States Patent and Trademark Office. *Id.* at 2.

We determine that good cause exists for entering the proposed Protective Order (Exhibit 1015) in this proceeding.

Regarding the motions to seal, a movant must demonstrate "good cause" for sealing the documents, and must "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." *Garmin v. Cuozzo*, IPR2012-00001 (PTAB Apr. 5, 2013) (Paper 36). Good cause is established by demonstrating that the balance of the following considerations favors sealing the material: whether (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. See *Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 (PTAB Jan. 19, 2018) (informative), at 4; *see also Corning Optical Communications RF, LLC, v. PPC Broadband, Inc.*, IPR2014-00440 (PTAB Apr. 14, 2015) (Paper 47), at 3.

We are persuaded by Petitioner's unopposed motions (Papers 20 and 27) that the foregoing factors, on balance, weigh in favor of sealing the proposed documents. For example, we determine that the redactions made to the public versions are reasonable and necessary based on the above

factors. We are also persuaded that Petitioner has demonstrated good cause for sealing the proposed documents.

It is, therefore,

ORDERED that Petitioner's Motion for Protective Order (Paper 21) is granted and that the parties' proposed Protective Order (Exhibit 1015) is placed into effect;

FURTHER ORDERED that Petitioner's Unopposed Motion to Seal (Paper 20) is granted; and

FURTHER ORDERED that Petitioner's Second Unopposed Motion to Seal (Paper 27) is granted.

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