

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIEMENS GAMESA RENEWABLE ENERGY INC.,
Petitioner,

v.

GENERAL ELECTRIC COMPANY,
Patent Owner.

IPR2022-01279
Patent 7,629,705 B2

Before BARBARA A. PARVIS, JEFFREY W. ABRAHAM, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

HOWARD, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Unopposed Motion to Expunge
37 C.F.R. § 42.56

I. INTRODUCTION

On April 12, 2023, with our authorization, Petitioner filed an Unopposed Motion to Expunge Confidential Exhibits 1052–1058¹ pursuant to 37 C.F.R. § 42.56. Paper 20 (“Motion to Expunge” or “Mot.”). Petitioner moves to expunge the following documents which are all under seal:

Ex. 1052 Declaration of Paul Brogan (Unredacted Version);

Ex. 1053 “Simulation of 2.3MW OPTION 3: Grid Fault Ridethrough,” Alstom Engineering Report dated February 27, 2006;

Ex. 1054 “Grid Fault Ridethrough. Option 3. 0% - Model Validation,” Alstom Engineering Report dated March 8, 2006;

Ex. 1055 “ALSPAMV3000e Application Note 440,056: US Wind Generator Control Functions,” Alstom Application Note 440,056, Rev. 4 dated March 2006;

Ex. 1056 “ALSPAMV3000e Application Note 440,056: US Wind Generator Control Functions,” Alstom Application Note 440,056, Rev. 7 dated May 2007;

Ex. 1057 DRI file for Network-Side MV3000 unit in Horse Hollow wind turbine S109, dated July 5, 2006; and

Ex. 1058 “ALSPAMV3000e Application Note 440,054 Network Fault Ridethrough and Voltage Support Facility,” Alstom Application Note 440,054, dated March 2005.

¹ The title of the motion and first sentence indicate that it is seeking to expunge Exhibits 1052–1059. However, the substance of the motion and conclusion only refer to exhibits 1052–1058. As exhibit 1059 is a public document—the proposed protective order—we treat the references to exhibit 1059 as a typographical error.

Mot. 1. Petitioner represents that “the motion is unopposed” that the aforementioned documents be expunged from the record. *Id.*

“After denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record.” *See* 37 C.F.R. § 42.56 (2022). On April 10, 2022, we issued a Termination Decision granting the parties’ Joint Motion to Terminate Proceeding due to settlement between the parties prior to institution of trial. Paper 19. In that Decision, we ordered the Petition to be dismissed and the proceeding to be terminated. *Id.*

For the reasons below, Petitioner’s Motion to Expunge is *granted*.

II. PRINCIPLES OF LAW

Under 35 U.S.C. § 316(a)(1) and 37 C.F.R. § 42.14, the default rule is that all papers filed in an *inter partes* review are open and available for access by the public; a party, however, may file a concurrent motion to seal and the information at issue is sealed pending the outcome of the motion. It is, however, only “confidential information” that is protected from disclosure. 35 U.S.C. § 316(a)(7) (2018). The Consolidated Trial Practice Guide states that

Confidential information that is subject to a protective order ordinarily would become public 45 days after denial of a petition to institute a trial or 45 days after final judgment in a trial. There is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public. 37 C.F.R. § 42.56. The rule balances the needs of the parties to submit confidential information with the public

interest in maintaining a complete and understandable file history for public notice purposes. The rule encourages parties to redact sensitive information, where possible, rather than seeking to seal entire documents.

*See Consolidated Trial Practice Guide (“CTPG”) 21–22 (Nov. 2019).*² “The rule[] aim[s] 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.” *Id.* at 19. Accordingly, a party seeking expungement of material from the record must show good cause by demonstrating that any information sought to be expunged constitutes confidential information, and that the party’s interest in expunging it outweighs the public’s interest in maintaining a complete and understandable history of this proceeding. *Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, IPR2013-00453, Paper 97 at 2 (PTAB Apr. 15, 2015).

III. ANALYSIS

We are persuaded by Petitioner’s unopposed contentions that Exhibits 1052, 1053, 1054, 1055, 1056, 1057, and 1058 each contain confidential information and that expunging these documents would protect that confidential information without harming the public’s interest in maintaining a complete and understandable file history. Mot. 1–5. We have examined Petitioner’s contentions with respect to each document and agree that good cause exists to maintain information in each document as confidential. *Id.*

² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

Each of these exhibits was subject to a prior motion to seal (Paper 3), and we agreed that each exhibit contains confidential information (Paper 16, 4–5). For example, Exhibits 1053, 1054, 1055, 1056, and 1058 each contain confidential technical design and business information which, if disclosed publicly, would likely cause competitive harm to Petitioner. *See* Mot. 3–4; Paper 16, 4. Exhibit 1057 contains confidential software configuration information which, if disclosed publicly, would likely cause competitive harm to Petitioner. *See* Mot. 4; Paper 16, 4. And Exhibit 1052, an unredacted version of the Declaration of Paul Brogan, contains statements about the contents of the above-mentioned confidential exhibits.³ *See* Mot. 4–5; Paper 16, 4–5.

Petitioner argues good cause exists to expunge these documents for at least the following reasons. *See, e.g.*, Mot. 3–5. For example, Petitioner argues that it “will suffer concrete harm if these exhibits are released publicly” because “they reflect technical details of the MV-3000 power converter, a component of Petitioner’s wind turbines, and they show how to program the MV-3000 to achieve not only zero voltage ride through (the feature that is relevant to the Petition) but also to perform other operations.” *Id.* at 3–4; *see also id.* at 4 (describing particular technical details of each confidential exhibit and stating that “exposure of these confidential exhibits will harm it in the market for repair and maintenance services of legacy wind turbines”). Petitioner also argues that “[e]xpunging these confidential exhibits 1052-1058 will not interfere with the goals of maintaining a

³ Pursuant to the Board’s order (Paper 16, 5–6), Petitioner filed a redacted copy of the Brogan Declaration as Exhibit 1060. *See* Paper 21; Ex. 1060; *see also* Mot. 5.

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