

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.

Petitioner

v.

SIGHTSOUND TECHNOLOGIES, LLC

Patent Owner

Case CBM2013-00020

Patent 5,191,573

Before the Honorable MICHAEL P. TIERNEY, JUSTIN T. ARBES, and
GEORGIANNA W. BRADEN,
Administrative Patent Judges.

**JOINT MOTION TO FILE CONFIDENTIAL DOCUMENTS UNDER
SEAL PURSUANT TO 37 C.F.R. §§ 42.14 & 42.54**

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner SightSound Technologies, LLC (“Patent Owner” or “SightSound”) and Petitioner Apple Inc. (“Petitioner” or “Apple”) respectfully submit this Joint Motion to Seal portions of Petitioner’s Reply, the Declaration of Lawrence Kenswil (Exhibit 4256), the Second Declaration of Dr. John P.J. Kelly (Exhibit 4262), and certain Exhibits thereto, all of which are being filed concurrently with this Motion.

I. Background

In this proceeding, SightSound produced seven documents (the “Proposed Exhibits”) to Apple that SightSound also produced in related litigation between the parties currently pending in the Western District of Pennsylvania styled *SightSound Techs., LLC v. Apple Inc.*, Civil Action No. 2:11-cv-01292-DWA. See Exhibits 4157 through 4163. During litigation, SightSound designated the Proposed Exhibits “Confidential” and produced them pursuant to the protective order entered in that action. Exhibit 4261. The Proposed Exhibits are cited in Petitioner’s Reply, the Declaration of Lawrence Kenswil (Exhibit 4256), and/or the Second Declaration of Dr. John P.J. Kelly (Exhibit 4262) in support of Petitioner’s Reply. SightSound seeks to maintain the confidentiality of the Proposed Exhibits and has requested that Apple file them under seal in this proceeding for the reasons set forth below. Apple does not oppose SightSound’s request to file the Proposed Exhibits under seal.

Accordingly, SightSound and Apple move to file under seal Exhibits 4157 through

4163 and the portions of Petitioner's Reply, Declaration of Lawrence Kenswil (Exhibit 4256), and Second Declaration of Dr. John P.J. Kelly (Exhibit 4262) that cite to the subject matter of the Proposed Exhibits, all of which are being filed concurrently with this Motion. SightSound and Apple have agreed to be bound by the terms of the Board's default protective order (*see* Office Patent Trial Practice Guide at 77 Fed. Reg. 48756, 48771 (Aug. 14, 2012)), a copy of which is attached hereto as Exhibit 4269.

II. Good Cause Exists For Sealing Certain Confidential Information

SightSound submits that each of the Proposed Exhibits summarized in the table below contains SightSound's confidential trade secret, business, and commercial information. In the table below, SightSound provides detailed good cause reasons for sealing each of the exhibits. The portions of Petitioner's Reply, Declaration of Lawrence Kenswil (Exhibit 4256), and Second Declaration of Dr. John P.J. Kelly (Exhibit 4262) that cite to the subject matter of the Proposed Exhibits should be sealed for the same reasons. Apple does not oppose.

Exhibit	Good Cause for Filing Under Seal
4157	This document is a private placement memorandum disclosed only on a confidential basis. The document contains confidential information regarding SightSound's financial performance, business strategies, licensing efforts and strategy, and financial agreements

Exhibit	Good Cause for Filing Under Seal
	with third parties. This document is subject to a protective order put in place by the District Court and contains confidential information which should not be revealed in this proceeding.
4158	This document is a confidential partially complete internal draft of an “expansion plan” for a potential business that never came into existence, but was contemplated as potentially relating to SightSound and the patents. The documents contain confidential financial projections based on SightSound’s analysis and strategy related to the patents. This document is subject to a protective order put in place by the District Court and contains confidential information which should not be revealed in this proceeding.
4159	This document is a “Confidential Offering Memorandum” for SightSound Technologies, Inc. The document contains confidential financial information and market analysis relating to the patents. This document is subject to a protective order put in place by the District Court and contains confidential information which should not be revealed in this proceeding.
4160	This document is a confidential memorandum regarding a valuation

Exhibit	Good Cause for Filing Under Seal
	<p>of SightSound.com's stock. In addition to containing an internal discussion of SightSound's business and financing activities, the document contains an internal discussion of SightSound's licensing efforts and licensing strategy, including SightSound's assessment of the major record labels approach and interest in licensing the patents as well as specific licensing terms discussed in negotiations. This document is subject to a protective order put in place by the District Court and contains confidential information which should not be revealed in this proceeding.</p>
4161	<p>This document is a confidential "Business Plan" containing SightSound's confidential information regarding its financial statements and future projections, as well as confidential analysis regarding the competitive landscape, business strategy and the patents. This document is subject to a protective order put in place by the District Court and contains confidential information which should not be revealed in this proceeding.</p>
4162	<p>This document is a confidential communication from counsel analyzing the patents which appears to have only been shared with</p>

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