

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC., LINKEDIN CORP., and TWITTER, INC.,
Petitioners

v.

SOFTWARE RIGHTS ARCHIVES, LLC
Patent Owner

Case No. IPR2013-00479
Patent No. 5,832,494
Title: METHOD AND APPARATUS FOR INDEXING, SEARCHING
AND DISPLAYING DATA

PETITIONERS' MOTION TO SEAL

I. INTRODUCTION

Pursuant to 37 CFR § 42.54, Petitioners, Facebook, Inc., LinkedIn Corp., and Twitter, Inc. (“Petitioners”) respectfully submit this Motion to Seal Exhibit 1236 (“the Exhibit”), Transcript of Deposition of Amy N. Langville, Ph. D. dated August 15, 2014 (“Langville Transcript”). Ms. Langville was retained as a consultant by the Patent Owner, Software Rights Archive, LLC. Patent Owner has designated the Langville Transcript as “CONFIDENTIAL” due to purported third-party confidential information.

II. Applicable Legal Principles for Sealing Confidential Information

There is a strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public, especially in an *inter partes* review which determines the patentability of claims in a patent and therefore affects the rights of the public. *St. Jude Medical, Cardiology Division, Inc. v. Volcano Corp.*, IPR2013-00258, Decision to Revised Motion to Seal 37 C.F.R. §§ 42.14 and 42.54, Paper 28 at 2. Under 35 U.S.C. § 316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public; and a party may file a concurrent motion to seal and the information at issue is sealed pending the outcome of the motion. *Id.*

It is, however, only “confidential information” that is protected from disclosure. 35 U.S.C. § 316(a)(7) (“The Director shall prescribe regulations -- ...

providing for protective orders governing the exchange and submission of confidential information”). *Id.* In that regard, the *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012), provides:

The 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.

* * *

Confidential Information: The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information. § 42.54.

The standard for granting a motion to seal is “for good cause.” 37 C.F.R. § 42.54. Petitioners, as moving parties, have the burden of proof in showing entitlement to the requested relief. *Id.*

III. Good Cause Exists for Sealing Exhibit 1034

Petitioners are submitting the Langville Transcript to support arguments made in reply to the Patent Owner’s Response to the Decision Instituting *Inter Partes* Review. Patent Owner has designed the transcript as confidential. Accordingly, to avoid any public disclosure of potentially confidential information, Petitioners submit that sealing the Exhibit is appropriate.

IV. Certification of Non-Publication

Petitioners certify that the Exhibit has not been publicly disclosed, to the best of Petitioners' knowledge.

V. Certification of Conference with Opposing Parties Pursuant to 37 C.F.R. § 42.54

Petitioners certify that counsel for Patent Owner conferred with counsel for Petitioners during the deposition of Ms. Langville when Patent Owner designated the Langville Transcript as confidential. Petitioners reserve the right to seek to de-designate confidentiality where appropriate.

VI. Proposed Protective Order

Petitioners propose that the same Protective Order previously submitted by Patent Owner in this proceeding (Paper 32) would apply here.

VII. Conclusion

For the above reasons, Petitioners respectfully request that the Exhibit herein be treated as confidential information and be filed under seal.

DATED: September 5, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing
PETITIONERS' MOTION TO SEAL was served on September 5, 2014 by
electronic mail directed to the attorneys of record at the following addresses:

Martin M. Zoltick Nancy J. Linck Rothwell, Figg, Ernst & Manbeck, P.C. 607 14th St., N.W., Suite 800 Washington, DC 20005 Service Email: SRA-IPR@rfem.com	Lead and Backup Counsel for Patent Owner
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