

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

SOFTWARE RIGHTS ARCHIVE, LLC,
Patent Owner.

Cases IPR2013-00478 (Patent 5,544,352)
IPR2013-00479 (Patent 5,832,494)
IPR2013-00480 (Patent 5,832,494)
IPR2013-00481 (Patent 6,233,571)

Before SALLY C. MEDLEY, CHRISTOPHER L. CRUMBLEY, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

IPR2013-00478 (Patent 5,544,352)
IPR2013-00479, -00480 (Patent 5,832,494)
IPR2013-00481 (Patent 6,233,571)

On February 6, 2015, in each of IPR2013-00478, IPR2013-00479, IPR2013-00480, and IPR2013-00481, within the time set in the Final Written Decision under 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73 (Paper 58), Patent Owner requested that its Motion to Seal Exhibit 2114 dated May 19, 2014 (Paper 35) be withdrawn and the confidential version of Exhibit 2114 be expunged from the record and replaced with a redacted version that has the confidential information removed. Paper 59.¹ Also, on February 6, 2015, Patent Owner submitted a redacted version of the Declaration of Dr. Amy Langville (“Langville Declaration”) as Exhibit 2114. Patent Owner’s request is unopposed.

Additionally, Patent Owner requested Petitioner’s Motion to Seal the Transcript of Dr. Amy N. Langville (“Langville Transcript”) dated September 5, 2014 (Paper 42) be withdrawn and the confidential version of the Langville Transcript be expunged from the record and replaced with a redacted version that has the confidential information removed. On February 6, 2015, Patent Owner submitted what Patent Owner asserts is a redacted version of the Langville Transcript, filed as Exhibit 1034, Exhibit 1236, and Exhibit 1033 in IPR2013-00478, IPR2013-00479, and IPR2013-00481, respectively. Petitioner opposes Patent Owner’s request to file the redacted version of the Langville Transcript.

Patent Owner’s requests that (1) its Motion to Seal Exhibit 2114 be withdrawn and (2) we expunge the confidential version of Exhibit 2114 (Paper 35) comply sufficiently with the guidance we provided in our Final Written Decision (Paper 58). We note that the confidential and redacted

¹ For expediency, IPR2014-00478 is representative and all subsequent citations are to IPR2014-00478 unless otherwise noted.

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versions in each of IPR2013-00478, IPR2013-00479, IPR2013-00480, and IPR2013-00481 use the same Exhibit No. 2114. Accordingly, only the confidential versions of the Langville Declaration, filed as Exhibit 2114 on May 19, 2014 or May 20, 2014 in each of IPR2013-00478, IPR2013-00479, IPR2013-00480, and IPR2013-00481 are expunged.

Regarding the Langville Transcript, the redactions in Patent Owner's redacted version do not effectively shield information from public view because the words underneath the redactions are visible. Accordingly, we expunge the redacted versions of the Langville Transcript filed on February 6, 2015 as Exhibit 1034, Exhibit 1236, and Exhibit 1033 in IPR2013-00478, IPR2013-00479, and IPR2013-00481, respectively. Additionally, Patent Owner cannot withdraw Petitioner's motion to seal.

In the Final Written Decision, we ordered that Exhibit 1034 will be made available to the public after 5 PM Eastern five business days after the entry date of this decision, unless prior to that time, Petitioner (1) withdraws the motion to seal and requests that we expunge Exhibit 1034, or (2) withdraws the motion to seal, requests that we expunge Exhibit 1034, and replaces it with a redacted version that leaves out the confidential information. Paper 59. Although Petitioner filed a motion to seal the Langville Transcript, Petitioner now opposes Patent Owner's redactions and has taken no further action to protect information Petitioner contended should be sealed.

Patent Owner did not file a motion to seal the Langville Transcript, instead relying on Petitioner's unsupported motion (Paper 42). The record of a proceeding, including documents and things, shall be made available to

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the public unless otherwise ordered and “[a] party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed.” 37 C.F.R. § 42.14. Additionally, in its recent submission, Patent Owner did not explain why the redacted material in the Langville Transcript should be protected as confidential. Paper 59.

As a result, although the Langville Transcript was filed by Petitioner in September 2014 and has been part of the record for several months, neither party has provided persuasive argument as to why any information in the Langville Transcript is confidential, and Patent Owner’s redacted version is the first indication that has been submitted as to what information is purportedly confidential. In light of Patent Owner’s attempt to file a redacted version, we will allow five additional days for Patent Owner to obtain an agreement from Petitioner regarding redactions. Nonetheless, because the record does not have a submission by either party that satisfies the burden of demonstrating that information in the Langville Transcript is confidential, if no agreement is reached, as we indicated in our Final Written Decision, the Langville Transcript will become public.

Order

It is

ORDERED that only the confidential versions of the Declaration of Dr. Amy Langville, filed as Exhibit 2114 on May 19, 2014 or May 20, 2014 in each of IPR2014-00478, IPR2014-00479, IPR2014-00480, and IPR2014-00481 are expunged and Patent Owner’s motion to seal Exhibit 2114 is withdrawn;

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FURTHER ORDERED that the redacted versions of the Transcript of Dr. Amy N. Langville, filed as Exhibit 1034, Exhibit 1236, and Exhibit 1033 in IPR2013-00478, IPR2013-00479, and IPR2013-00481, respectively, are expunged; and

FURTHER ORDERED that Exhibit 1034, Exhibit 1236, and Exhibit 1033 in IPR2013-00478, IPR2013-00479, and IPR2013-00481, respectively will be made available to the public after 5 PM Eastern five business days after the entry date of this decision, unless prior to that time, Petitioner and Patent Owner jointly file unopposed redacted versions of Exhibit 1034, Exhibit 1236, and Exhibit 1033 in each of IPR2013-00478, IPR2013-00479, and IPR2013-00481, respectively.

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