

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CONOPCO, INC. dba UNILEVER,
Petitioner,

v.

THE PROCTER & GAMBLE COMPANY,
Patent Owner.

Case IPR2013-00509
Patent 6,451,300 B1

Before LORA M. GREEN, GRACE KARAFFA OBERMANN, and
RAMA G. ELLURU, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

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

Two motions are outstanding in this proceeding: (1) The parties' Joint Motion to Enter Default Protective Order (Paper 34, "Jt. Mot."); and (2) Petitioner's Motion to Seal (Paper 47, "Pet. Mot."). Neither of those motions is in condition for allowance. "A party may file a motion to seal, where the motion to seal contains a proposed protective order." 37 C.F.R. § 42.54 (a). "The Board may, for good cause, issue an order to protect a party or person from disclosing confidential information." *Id.*

Only one document filed in this proceeding is alleged to contain confidential information. Ex. 1036. As explained below, no showing of "good cause" to seal Exhibit 1036 is made by either party. No basis exists, therefore, for sealing that document, or entering a protective order, in this proceeding.

Exhibit 1036 was filed by Petitioner and is an un-redacted deposition transcript of Patent Owner's witness, Dr. Robert Y. Lochhead.¹ Ex. 1036; Pet. Mot. 2. Petitioner moves to seal Exhibit 1036 because Patent Owner has designated information within that transcript as confidential, therefore, "Petitioner will defer to Patent Owner to justify its designation." Pet. Mot. 2–3. Neither party directs us to justification in that regard. On this record, no showing of "good cause" to seal Exhibit 1036 is made by either party. 37 C.F.R. § 42.54 (a).

Petitioner filed Exhibit 1036 in connection with its Reply. Paper 45. Petitioner did not file a redacted version of its Reply, and it appears to us that neither party relies on any allegedly confidential information reflected in Exhibit 1036. With this Order, we issue a Final Written Decision that does not refer to, or rely upon, Exhibit 1036.

¹ Concurrently with Exhibit 1036, Petitioner filed a redacted version of Dr. Lochhead's deposition transcript, which is available to the public. Ex. 1037.

The parties are directed to confer to resolve whether it is necessary to maintain Exhibit 1036 in the record of this proceeding. The Board shall expunge Exhibit 1036 from the record unless, within five (5) business days of the date of this Order, a paper is filed (jointly or individually) that shows cause why that exhibit should not be expunged. Any paper authorized by this Order shall not exceed five (5) pages.

ORDER

It is

ORDERED that the parties are directed to confer as set forth in this Order;

FURTHER ORDERED that Exhibit 1036 shall be expunged from the record unless, within five (5) business days of the date of this Order, a paper is filed (jointly or individually) that shows cause why that exhibit should not be expunged; and

FURTHER ORDERED that any paper authorized by this Order shall not exceed five (5) pages.

IPR2013-00509
Patent 6,451,300 B1

For Petitioner:

Joseph Meara
Michael Houston
Jeanne Gills
FOLEY & LARDNER LLP
jmeara-PGP@foley.com
mhouston@foley.com
jmgills@foley.com

For Patent Owner:

David Maiorana
John V. Biernacki
Michael Weinstein
JONES DAY
dmaiorana@jonesday.com
jvbiernacki@jonesday.com
trgoots@jonesday.com
msweinstein@jonesday.com

Steven Miller
Carl Roof
Angela Haughey
THE PROCTER & GAMBLE COMPANY
miller.sw@pg.com
roof.cj@pg.com
haughey.a@pg.com