

Paper No. ____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BROADCOM CORPORATION

Petitioner

v.

TELEFONAKTIEBOLAGET L.M. ERICSSON

Patent Owner

Case IPR2013-00601
U.S. Patent No. 6,772,215

MOTION TO SEAL

Pursuant to 37 C.F.R. § 42.14, Petitioner Broadcom Corporation (“Broadcom”) requests permission to seal Ericsson’s Emergency Motion for Relief from the Protective Order, Case 6:10-cv-473 (E.D. Tex., March 8, 2013) (Exhibit 1008).

The Board’s Decision Denying Ericsson’s Motion for Additional Discovery (Paper No. 23) (“the Decision”) stated that “Broadcom should clarify if Exhibit 1018 is to be placed under seal. It appears, based on the face of the document and related characterizations, that it contains confidential information. It is under seal at PTAB at this time.” Decision at 5, FN. 3. The Decision addressed three IPRs, namely IPR2013-00601, IPR2013-00602 and IPR2013-00636; Exhibit 1018 from IPR2013-00636 is Exhibit 1008 in the present case. Broadcom therefore submits the present Motion to Seal to confirm that Exhibit 1008 contains confidential information and to request permission to keep Exhibit 1008 under seal.

I. Exhibit 1008 Contains Confidential Information

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, but a party may file a concurrent motion to seal documents as provided by 37 C.F.R. § 42.14. Only “confidential information” is protected from public disclosure. 35 U.S.C. § 316(a)(7); *Office Trial Practice Guide*, 77 *Fed. Reg.* 48756, 48760 (Aug. 14,

2012). The Board will only grant a motion to seal for “good cause.” 37 C.F.R. § 42.54; IPR2012-00001, Paper No. 34 at 3.

Exhibit 1008 contains confidential statements regarding Broadcom and the defendants in *Ericsson Inc. v. D-Link Corp. et al.*, Civil Action No. 6:10-cv-473 (E.D. Tex.) (the “Texas Litigation”). Exhibit 1008 was filed under seal in the Texas Litigation, and therefore this information is not publicly known, and should remain confidential. Therefore, Broadcom respectfully requests permission to keep Exhibit 1008 under seal at the PTAB.

II. Proposed Protective Order

Broadcom proposes that the default protective order found in Appendix B of the Trial Practice Guide be entered.

III. Certification of Conference with Opposing Party Pursuant to 37 C.F.R. § 42.54.

Pursuant to 37 C.F.R. § 42.54, Broadcom certifies that it conferred with Ericsson regarding the scope of the proposed protective order, and the parties agree to use the default protective order in Appendix B of the Trial Practice Guide.

IV. Conclusion

Broadcom respectfully requests that the Board grant this Motion to Seal because it has good cause to seal confidential Exhibit 1008.

Dated: January 27, 2014

Respectfully submitted,

/Dominic E. Massa/

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CERTIFICATE OF SERVICE

I hereby certify that, on January 27, 2014, I caused a true and correct copy of the foregoing MOTION TO SEAL to be served via email on the attorneys identified in Ericsson’s Updated Mandatory Notice (Paper 8), whom consented to electronic service:

Lead Counsel:	Peter J. Ayers
Back-up Counsel:	J. Christopher Lynch
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