

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 IPR2013-00636
U.S. Patent No. 6,424,625

MOTION TO SEAL

Pursuant to 37 C.F.R. § 42.14, Petitioner Broadcom Corporation

(“Broadcom”) requests permission to seal:

(1) the portion of Broadcom’s Opposition to Telefonaktiebolaget L.M. Ericsson’s (“Ericsson”) Motion for Additional Discovery (“Opposition”) that addresses Ericsson’s provisionally sealed Exhibit 2009;

(2) the Declaration [REDACTED] (Exhibit 1017); and

(3) the portion of Broadcom’s Opposition that addresses Exhibit 1017.

I. Ericsson’s Exhibit 2009 Is Provisionally Sealed

Ericsson moved to seal Exhibit 2009 under 37 C.F.R. § 42.14, (Paper 11) which states that “the document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.” 37 C.F.R. § 42.14. Therefore, Exhibit 2009 is provisionally sealed, and remains sealed pending the outcome of the decision on Ericsson’s motion.

As acknowledged in Ericsson’s motion to seal Exhibit 2009 (Paper 11):

[REDACTED]

(Paper 11 at 1).

Additionally, although Broadcom objected to Ericsson's inclusion of Exhibit 2009 in Ericsson's Motion for Additional Discovery due to its highly confidential nature, Ericsson included [REDACTED] in its Motion. (Paper 11 at 3). Broadcom does not in any way dispute the highly confidential nature of Exhibit 2009.

II. Exhibit 1017 Contains Confidential Information

Exhibit 1017 contains confidential statements regarding Broadcom and the defendants in *Ericsson Inc. v. D-Link Corp. et al.*, Civil Action No. 10-cv-473 (E.D. Tex.) (the "Texas Litigation"). This information is not publicly known, and should remain confidential.

II. Broadcom's Discussion of Exhibit 2009 and Exhibit 1017

Constitutes Confidential Information and Should Be Sealed.

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.

Regarding Broadcom's discussion of Exhibit 2009 in its opposition, Broadcom has good cause for seeking permission to place the portion of its Opposition that discusses Exhibit 2009 under seal. As an initial matter, since Exhibit 2009 is provisionally sealed, it logically follows that the portions of Broadcom's Opposition that discuss Exhibit 2009 should also be sealed. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Regarding Exhibit 1017, Broadcom has good cause for requesting Exhibit 1017 to be sealed because it contains confidential business information regarding Broadcom and the defendants in the Texas Litigation. As with Broadcom's discussions regarding Exhibit 2009 in its Opposition, Broadcom requests that the portion of Broadcom's Opposition that addresses Exhibit 1017 should also be sealed to maintain the confidentiality of the information in Exhibit 1017.

Therefore, Broadcom respectfully requests permission to seal the portion of its Opposition that addresses Ericsson's provisionally sealed Exhibit 2009, Exhibit 1017, and the portion of its Opposition that addresses Exhibit 1017.

III. Proposed Protective Order

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

IV. 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.

V. Conclusion

Broadcom respectfully requests that the Board grant this Motion to Seal because it has good cause to seal the confidential portions of its Opposition and Exhibit 1017.

Dated: December 20, 2013.

Respectfully submitted,

/Dominic E. Massa/

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