

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GREENE'S ENERGY GROUP, LLC, INC.
Petitioner

v.

OIL STATES ENERGY SERVICES, LLC,
Patent Owner

Case IPR2014-00216
Patent 6,179,053 B1

SCOTT E. KAMHOLZ, *Administrative Patent Judge.*

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

A conference call with the parties was held on August 25, 2014 to discuss Patent Owner's request for authorization to seek entry of a protective order other than the default protective order. In particular, Patent Owner seeks to categorize certain documents containing Patent Owner's confidential financial information as "outside attorney's eyes only" to prevent their disclosure to in-house personnel at Petitioner. Patent Owner cites *Athena Automation Ltd. v. Husky Injection Molding Systems Ltd.*, IPR2013-00167, Paper 32, 3-4 (PTAB Jan. 8, 2014) in support of its position.

Petitioner objects to this restriction on the basis that at least some of its employees need access to the information in order to avoid being placed at a disadvantage in this proceeding. Petitioner cites *Amneal Pharm., LLC v. Supernus Pharm., Inc.*, IPR2013-00368, Paper 34, 2-3 (PTAB Mar. 7, 2014) in support of its position.

Patent Owner requires no special authorization to seek entry of a protective order other than the default protective order. *See* 37 C.F.R. § 42.54(a). Patent Owner should include arguments concerning its proposed protective order in its motion to seal. The motion to seal must be filed at the same time as the evidence sought to be sealed. 37 C.F.R. § 42.14. The motion should include the proposed protective order as an exhibit to the motion, as well as a marked-up version of the proposed protective order relative to the default protective order, so that the differences can be appreciated readily.

Patent Owner indicated its intention to file a motion to seal with its motion to amend on Due Date 1, currently set for August 27, 2014.

Petitioner is authorized to file an opposition to the motion to seal within

three business days after Patent Owner files the motion to seal. Patent Owner is not authorized, at present, to file a reply in support of the motion to seal. If Patent Owner feels the need to file a reply, it should request a call with the Board within one business day after Petitioner's opposition is filed.

Petitioner agreed to respect any restrictions on access to information by its in-house personnel on a provisional basis, until the Board issues a decision on the motion to seal.

Patent Owner is reminded that it must show good cause why any protective order should be entered. *See* 37 C.F.R. § 42.54(a). Patent Owner must also demonstrate that it is entitled to the relief requested. *See* 37 C.F.R. § 42.20(c). Patent Owner is also reminded that information subject to a protective order, regardless of heightened access restrictions, will become public if identified in a final written decision in this proceeding, and that a motion to expunge the information will not necessarily prevail over the public interest in maintaining a complete and understandable file history. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,761.

Accordingly, it is hereby

ORDERED that, should Patent Owner file a motion to seal by Due Date 1 that proposes a protective order other than the default protective order, Petitioner is authorized to file an opposition thereto within three business days;

FURTHER ORDERED that Petitioner shall comply provisionally with any restrictions on access to information by its in-house personnel until the Board rules on the motion to seal; and

FURTHER ORDERED that no reply to the opposition is authorized.

Case IPR2014-00216
Patent 6,179,053 B1

For PETITIONERS:

John Feldhaus
Andrew Cheslock
FOLEY & LARDNER LLP

For PATENT OWNER:

C. Erik Hawes
Archis V. Ozarkar
MORGAN, LEWIS & BOCKIUS LLP