

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ORACLE CORPORATION
and NETAPP INC.,
Petitioners

v.

CROSSROADS SYSTEMS, INC.
Patent Owner

Case IPR2014-01207
Patent 7,051,147

**PATENT OWNER'S UNOPPOSED MOTION TO SEAL PORTIONS OF
EXHIBIT 1223**

In its final written decision in this matter the Board indicated that, unless a motion to seal were filed within 20 days of the decision, certain material filed under seal by Petitioner would be made public. Paper 78 at 46. Certain of the materials Petitioner filed under seal contains Patent Owner Crossroads Systems' confidential commercial information, and therefore Patent Owner requests this material be sealed pursuant to 37 C.F.R. §§ 42.14 and 42.54(A).

Specifically, Patent Owner requests that certain confidential information contained in Exhibit 1223 be sealed. As discussed further below, Exhibit 1223 is the deposition transcript of Patent Owner's Chief Financial Officer, and the testimony at issue contains references to confidential license agreements which have already been placed under seal. Concurrently with this motion, Patent Owner files a redacted version of Ex. 1223 which may be made available to the public. The Board has previously entered the default protective order. Paper 28. Petitioners do not oppose this motion.

Confidential information is protected from disclosure. 35 U.S.C. § 316(a)(7)

The Trial Practice Guide provides:

The rules aim to strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information. . . . The rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for

trade secret or other confidential research, development, or commercial information.

77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). The standard for granting a motion to seal is good cause. 37 C.F.R. §42.54(a).

The information Patent Owner requests to be sealed consists of testimony regarding the content of a license agreement, which contains a confidentiality provision limiting disclosure of the terms of the agreement. Ex. 1223 at 100:19-21; Ex. 2052 at 249. The testimony sought to be sealed is located on pages 103-106, 144-47, and 149-51 of Ex. 1223. The testimony at issue discloses, either by question or answer, some of the agreement's contents, and therefore is subject to the agreement's confidentiality provision.

The Board has already determined that the license agreement itself is confidential commercial information and properly the subject of a motion to seal. Paper 78 at 46. Moreover, such information is generally considered confidential and an appropriate subject of a motion to seal. *See, e.g., HBPSI – Hong Kong, Ltd. v. SRAM, LLC*, IPR2013-00174, Paper 19 at 1 (PTAB June 11, 2013) (granting leave to file confidential “Settlement and License Agreement” under seal). Especially since the Board has not relied on any of this information in reaching its final written decision (eliminating any public interest), Patent Owner's commercial information, including its license agreements and testimony referencing the contents of those

agreements, are properly considered confidential and Patent Owner has demonstrated good cause to seal the confidential information in Ex. 1223.

Dated: February 17, 2016

Respectfully submitted,

/James H. Hall/

James H. Hall

Registration No. 66,317

Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies service of *Patent Owner's Motion to Seal Portions of Exhibit 1223* and a redacted version of Exhibit 1223 on counsel for Petitioner by e-mail pursuant to agreement at the following addresses, on February 17, 2016:

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By: /James H. Hall /
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