

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
ZTE CORPORATION and ZTE (USA) INC.,
Petitioners

v.

E-WATCH, INC.
Patent Owner

IPR2015-00412
IPR2015-01366¹
U.S. Patent No. 7,365,871 B2

**PATENT OWNER'S UNOPPOSED MOTION TO SEAL UNREDACTED
VERSION OF EXHIBIT 1013**

Mail Stop
Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

¹ IPR2015-01366 has been joined with IPR2015-00412.

In compliance with the Board's instructions discussed in a telephone conference held on October 14, 2015, Patent Owner e-Watch ("Patent Owner" or "e-Watch") respectfully submits Patent Owner's Unopposed Motion to Seal Unredacted Version of Exhibit 1013, involving the September 28, 2015 deposition transcript of Dr. Jose Melendez ("Melendez Transcript").

Pursuant to Section 4(A)(ii) of the Default Protective Order previously submitted as Exhibit 2011, Patent Owner is alleging some, but not all, of the testimony contained in the Melendez Transcript is confidential. Consequently, a confidential/unredacted version of the Melendez Transcript and a non-confidential/redacted version of the Melendez Transcript are being submitted as Exhibit 1013. The reasons why the information redacted from the non-confidential version of Exhibit 1013 is confidential and should not be made available to the public are being provided herein as required in the Default Protective Order.

I. Regulations Related to Motions to Seal and Confidentiality Designations

37 C.F.R. § 42.14 provides:

The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. 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.

"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.” *Office Trial Practice Guide*, 77 F3d. Reg. 48756, 48760 (Aug. 14, 2012). “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.” *Id.* Under 37 C.F.R. § 42.20(c), Patent Owner, as the moving party, has the burden of proof in showing entitlement to the relief requested.

II. The Type of Confidential Information Patent Owner Seeks to Protect

The confidential information sought to be protected in this proceeding is of two types: (1) confidential commercial information about the Patent Owner's expert's business, including confidential commercial information that identifies clients, potential clients or former clients of the Patent Owner's expert's business along with the scope of work performed for those clients and (2) confidential personal financial information of Patent Owner's expert and/or his wife.

A. Confidential Commercial Information Related to Clients

The information redacted from pages 232-235 of the non-confidential version of the Melendez Transcript involves confidential commercial information related to the relative make-up of the clients of Patent Owner's expert's business and the relative revenue stream generated from these clients. Patent Owner's

expert has indicated that this information is not publicly available to his knowledge. This information would potentially give competitors to his business an unfair advantage to know what type of client base he maintains and in what percentages. In addition, this information is of no relevance to this proceeding, and the public has no legitimate interest in having access to this information.

The information redacted from page 237 of the non-confidential version of the Melendez Transcript involves confidential commercial information related to the identity of a client of the Patent Owner's expert's business and other information related to that client. Patent Owner's expert has indicated that this information is not publicly available to his knowledge. Disclosing the identity of clients and information related to such clients without permission could damage the expert's relationship with such clients and impact the expert's ability to generate new clients. In addition, this information is of no relevance to this proceeding, and the public has no legitimate interest in having access to this information.

The information redacted from page 238 of the non-confidential version of the Melendez Transcript involves confidential commercial information related to the identity of a client or former client of the Patent Owner's expert's business and information related to that client. Patent Owner's expert has indicated that this information is not publicly available to his knowledge. Disclosing the identity of

clients or former clients and information related to such clients without permission could damage the expert's relationship with such clients and impact the expert's ability to generate new clients. In addition, this information is of no relevance to this proceeding, and the public has no legitimate interest in having access to this information.

The information redacted from pages 243-244 of the non-confidential version of the Melendez Transcript involves confidential commercial information related to the identity of certain clients or potential clients of Patent Owner's expert's business and information related to those clients or potential clients, including clients or potential clients that are entities affiliated with Patent Owner's expert's wife. Patent Owner's expert has indicated that this information is not publicly available to his knowledge. Disclosing the identity of clients or potential clients and information related to such clients without permission could damage the expert's relationship with such clients and impact the expert's ability to generate new clients. In addition, this information is of no relevance to this proceeding, and the public has no legitimate interest in having access to this information.

The information redacted from page 245 of the non-confidential version of the Melendez Transcript involves confidential commercial information related to the identity of a certain business of Patent Owner's expert's wife, including the

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