

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC. and TWITTER, INC.,
Petitioner

v.

SUMMIT 6 LLC
Patent Owner

Case: IPR2015-00685
Patent No. 7,765,482

Title: Web-Based Media Submission Tool

PATENT OWNER'S MOTION TO SEAL

I. Introduction

Patent Owner Summit 6 requests permission to seal several exhibits under 37 C.F.R. § 42.14, as each exhibit contains confidential business information. Specifically, Summit 6 requests permission to seal the following exhibits:

1. Exhibit 2001: RIM–Summit 6 License and Settlement Agreement (executed October 17, 2012);
2. Exhibit 2002: Facebook–Summit 6 License and Settlement Agreement;
3. Exhibit 2020: Confidential Information Memorandum, “AdMission” (Swiftsure Capital LLC, December 13, 2004);
4. Exhibit 2021: Amendment No. 3 to the Visual Content Services Agreement Between eBay and iPIX (June 27, 2003); and
5. Exhibit 2033: Visual Content Services Agreement Between eBay and iPIX (April 19, 2000);

II. Each Exhibit Contains Confidential Information

Exhibit 2001 is a confidential license agreement between Summit 6 and Research in Motion Limited. Section 6.1 specifically notes the confidentiality of the agreement and the terms of its disclosure. The agreement contains confidential

business information about both Summit 6 and Research in Motion Limited. Thus, this information is not publicly known, and should remain confidential.

Exhibit 2002 is a confidential license agreement between Summit 6 and Facebook, Inc. Section 6.15 specifically notes the confidentiality of the agreement and the terms of its disclosure. The agreement contains confidential business information about both Summit 6 and Facebook, Inc. Thus, this information is not publicly known, and should remain confidential.

Exhibit 2020 is Swiftsure Capital LLC's Confidential Information Memorandum for AdMission. It is specifically marked "Confidential" and contains proprietary business information about the AdMission company's overall business, financial information, intellectual property, and future business opportunities. Thus, this information is not publicly known, and should remain confidential.

Exhibit 2021 is Amendment No. 3 to the Visual Content Services Agreement Between eBay and iPIX, dated June 27, 2003. Section 8 of the parties' original Visual Content Services Agreement (Exhibit 2033) specifically notes the confidentiality of the agreement, and that provision governs Amendment No. 3. The Amendment contains confidential business information about both iPIX and

eBay. Thus, this information is not publicly known, and should remain confidential.

Exhibit 2033 is the Visual Content Services Agreement Between eBay and iPIX, dated April 19, 2000. Section 8 specifically notes the confidentiality of the agreement and the terms of its disclosure. It is specifically marked “Confidential” and contains proprietary business information about both iPIX and eBay. Thus, this information is not publicly known, and should remain confidential.

III. Each Exhibit Contains Confidential Business Information and Should Be Sealed.

A party to an *inter partes* review proceeding may, concurrently with any filing, also file a motion to seal documents. 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; *Garmin Int’l, Inc. v. Cuozzo Speed Technologies, LLC*, IPR2012-00001, Paper 34, p. 3 (March 14, 2013).

Summit 6 has good cause for seeking permission to place the outlined exhibits under seal. As outlined above, each exhibit contains confidential and proprietary business information. Each exhibit is also marked as “confidential” or

contains a clause governing its confidentiality. Therefore, Summit 6 respectfully requests permission to seal the selected exhibits.

IV. Proposed Protective Order

Summit 6 proposes entry of the protective order found in Appendix B of the Trial Practice Guide.

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

A motion to seal requires a certification that the moving party has in good faith conferred or attempted to confer with the opposing party in an effort to agree as to the scope of the proposed protective order. 37 C.F.R. § 42.54; *Garmin, supra*, at 3. Counsel for Summit 6 conferred with counsel for Petitioners and the parties agreed to the continued use of the default protective order.

VI. Conclusion

Summit 6 respectfully requests that the Board grant this Motion to Seal because it has good cause to seal the confidential exhibits.

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