

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUMENTUM HOLDINGS, INC., LUMENTUM, INC., and LUMENTUM
OPERATIONS LLC,
Petitioner,

v.

CAPELLA PHOTONICS, INC.
Patent Owner.

Case IPR2015-00731
Patent RE42,368

**PATENT OWNER'S MOTION TO SEAL THE BOARD-CALL
TRANSCRIPT**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-145

I. STATEMENT OF RELIEF REQUESTED

Capella Photonics, Inc. respectfully requests that the Board maintain the transcript from the Board call on February 2, 2016 (Exhibit 2035) as confidential and under seal.

II. REASONS FOR RELIEF REQUESTED

In its January 22, 2016 Motion to Seal, Petitioner described a Schedule to a Contribution Agreement and redacted the reference to and a quote from the Schedule in both the confidential and public version of the motion. *See* Paper 23, pp. 2-3; Paper 22, p. 4. Although the Schedule that includes this quotation is an unproduced private document, Petitioner relies solely on this quotation to show that the Lumentum entities are RPIs and the Viavi entity is not an RPI. *See* Paper 22, pp. 3-4.

Even though the quotation from the Schedule is already redacted, Petitioner maintains that “a portion of [its Motion to Re-Caption] summarizes and/or otherwise reveals Petitioner’s confidential business information derived from documents that are not publicly available, the disclosure of which could have a serious negative impact on Petitioner and its business.” Paper 23, pp. 2-3.

The Board has not yet ruled on Petitioner’s Motion to Seal, and the transcript from the Board call on February 2, 2016 includes discussion about the private document, if one actually exists, that includes this quotation. Accordingly,

Capella has filed this motion to keep, under seal, any information the Board may decide is confidential based on Petitioner's motion.

Although Capella recognizes that the entirety of the February 2, 2016 Board-call transcript is likely not confidential, Capella asks the Board to keep the transcript under seal until the parties agree on a redacted version or when the Board denies Petitioner's Motion to Seal.

Date: February 4, 2016

Respectfully submitted,
/Jason D. Eisenberg/
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Counsel for Patent Owner

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the foregoing **PATENT OWNER'S MOTION TO SEAL THE BOARD-CALL TRANSCRIPT and EXHIBIT 2035** were served electronically via e-mail on February 4, 2016 in their entireties on the following counsel of record for Petitioner:

Walter C. Linder (Lead Counsel)
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