

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE INC.,  
Petitioner,

v.

SUMMIT 6 LLC,  
Patent Owner.

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Case IPR2015-00806<sup>1</sup>  
Patent 7,765,482 B2

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Before HOWARD B. BLANKENSHIP and GEORGIANNA W. BRADEN,  
*Administrative Patent Judges.*

BRADEN, *Administrative Patent Judge.*

ORDER

Granting Request to Preserve Record Pending Appeal  
*37 C.F.R. §§ 42.5*

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<sup>1</sup> Samsung Electronics Co., Ltd., who filed a Petition in IPR2016-00029, has been joined as a petitioner in the instant proceeding.

A conference call in the above proceeding was held on September 29, 2016 between John Shumaker for Patent Owner, Michael Morlock and John Alemanni for Petitioner, and Judges Braden and Blankenship. The call was initiated by Patent Owner to discuss limiting the public availability of proceeding documents pending an appeal. Specifically, during the call, Patent Owner requested that the entire docket in this proceeding be preserved pending an anticipated appeal, including preservation of all sealed documents in non-public form. Petitioner did not oppose Patent Owner's request.

During the course of this proceeding, we granted the parties' motions to file certain documents under seal. *See* Papers 18, 44, 59. Those documents ordinarily would become public 45 days after final judgment. Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012). If a party wishes to preserve the confidentiality of documents filed under seal, the party may file a motion to expunge them from the record. 37 C.F.R. § 42.56. In the Final Written Decision in the above-listed case, we relied on information in at least one sealed document. Paper 63, 38–39.

In our Order issued September 6, 2016 (Paper 64), we explained that any sealed documents relied upon in the Final Written Decision would be unsealed, unless the parties filed a motion to expunge the documents and replace it with a public version that only redacts confidential information *not* identified in the Final Written Decisions. *Id.* at 3–4. We understand Patent Owner's position to be that it cannot move to expunge because the Court of Appeals for the Federal Circuit needs the entire record of this proceeding to evaluate Patent Owner's appeal.

We agree with Patent Owner's position. Therefore, it is appropriate to preserve the record until after the completion of all appeals. Within 45 days of the conclusion of all appeals, or, if no Notice of Appeal is filed, within 45 days of the expiration of the period to file a Notice of Appeal, the parties shall file a motion to expunge any sealed documents relied upon in the Final Written Decision and replace it with a public version that only redacts confidential information *not* identified in the Final Written Decisions and to expunge any other sealed documents. If the parties do not file such a motion, the documents filed under seal in these proceedings will be unsealed.

Further to our Order issued September 6, 2016, we required the parties to file a Joint Stipulation that identifies with particularity the exact portions (by page or paragraph number) of all sealed papers and exhibits that are cited in the Final Written Decision by October 7, 2016. During the conference call on September 29, 2016, we reiterated the requirement for the parties to file the Joint Stipulation. Both parties acknowledged the requirement and indicated they would file such a Joint Stipulation in a timely fashion.

For the foregoing reasons, it is

ORDERED that Patent Owner's request to preserve the record pending appeal is *granted*;

FURTHERED ORDERED that the record in these proceedings will be preserved and the documents filed under seal will not be expunged or made public until after the completion of all appeals, or, if no Notice of Appeal is filed, the expiration of the period to file a Notice of Appeal;

FURTHERED ORDERED that the documents filed under seal in these proceedings will be unsealed 45 days after the conclusion of all appeals, or, if no Notice of Appeal is filed, 45 days after the expiration of the period to file a Notice of Appeal, unless, before that time, the parties file a motion to expunge any document relied upon in the Final Written Decision (Paper 63) and replace it with a public version that only redacts confidential information *not* identified in the Final Written Decisions and to expunge any other sealed documents.

FURTHER ORDERED that by October 7, 2016, Patent Owner and Petitioner shall file a Joint Stipulation of Papers and Exhibits as described in this Order, which identifies with particularity the exact portions (by line, page, and/or paragraph number) of all sealed papers and exhibits that are cited in the Final Written Decision; and

FURTHER ORDERED that the Joint Stipulation shall include a Counsel Certification attesting to the accuracy and completeness of the Joint Stipulation, including a statement verifying that the exact portion of each paper and exhibit cited in the Final Written Decision is identified (by line, page, and/or paragraph number) in the Joint Stipulation.

IPR2015-00806  
Patent 7,765,482 B2

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