

Filed on behalf of Petitioner

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Paper No. __

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

RPX Corporation

Petitioner

v.

Applications in Internet Time, LLC

Patent Owner

Case IPR2015-01750
Patent 8,484,111 B2

Case IPR2015-01751
Case IPR2015-01752
Patent 7,356,482 B2¹

**PETITIONER'S THIRD MOTION TO SEAL
UNDER 37 C.F.R. §§ 42.14 AND 42.54**

¹ The word-for-word identical paper is filed in each proceeding identified in the heading.

Pursuant to the Board’s Order on Conduct of the Proceedings (Paper No. 42), 37 C.F.R. §§ 42.14. and 42.54 and the Protective Order filed in these proceedings, Petitioner RPX Corporation (“RPX”), by and through its counsel of record, moves to seal the following documents filed by Patent Owner in IPR2015-01750, IPR2015-01751 and IPR2015-01752:

- Patent Owner’s Preliminary Response to the Petition (Paper No. 21, hereafter “the Preliminary Response”);
- Patent Owner’s Sur-Reply on real party-in-interest (Paper No. 38, hereafter “the Sur-Reply”);
- Patent Owner’s Opposition to Motion for Sanctions (Paper No. 40, hereafter “the Sanctions Opposition”);
- the description of Exhibit 2026 in the two most recently filed Patent Owner’s Exhibit Lists (Papers No. 39 and 41);
- Exhibits 2018, 2019, 2022, 2025, and 2026 (collectively hereafter “the Sensitive Exhibits”); and
- Exhibits 2027 and 2030 (collectively hereafter “the Redacted Exhibits”).

Redacted non-confidential versions of the Preliminary Response and the Sur-Reply were previously filed by Patent Owner as Papers No. 26 and No. 37,

respectively, and redacted non-confidential versions of the Sanctions Opposition, the Exhibit Lists, and the Redacted Exhibits are being filed by Petitioner concurrently with this Motion to Seal.² An executed copy of the Protective Order, as stipulated to by the parties, was filed by Petitioner as Exhibit 1017 in IPRs 2015-01750 and -01751, and as Exhibit 1117 in IPR2015-01752.³

The documents listed above contain highly confidential and extremely sensitive information, including, *inter alia*, references to highly confidential IPR litigation strategy that RPX employs to pursue its business, references to highly confidential agreements and communication records, and sensitive details about how AIT failed to protect RPX's confidential information. RPX guards its confidential information to protect its own business as well as third parties and is

² AIT failed to mark their exhibits with exhibit labels as required by 37 C.F.R. § 42.63(d)(1). RPX has added the appropriate exhibit labels to the Redacted Exhibits filed herewith.

³ All of the exhibits filed by Petitioner are identical between all three proceedings. Pursuant to the instructions posted on the PRPS webpage for exhibit numbering in IPRs challenging the same patent (FAQ D9), Petitioner's exhibit numbers in IPR 2015-01752 are determined by adding 100 to the exhibit numbers in IPR2015-01750 and IPR2015-01751. For convenience, citations to Petitioner's exhibits in this paper below use the exhibit numbers in IPR2015-01750 and IPR2015-01751.

contractually obligated to keep certain of this information confidential. RPX, therefore, respectfully requests that the Sensitive Exhibits in their entirety and the redacted portions of the other above-listed documents be kept under seal. Sealing this information falls squarely within the Board’s authority to “[require] that a trade secret or other confidential ... commercial information not be revealed or be revealed only in a specified way ...” 37 C.F.R. § 42.54(a)(7).

I. GOOD CAUSE EXISTS FOR SEALING RPX’S SENSITIVE CONFIDENTIAL INFORMATION

In deciding whether to seal documents, the Board must find “good cause,” and must “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.” *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 (April 5, 2013). Here, the balance tips heavily in favor of protecting RPX’s highly confidential information.

The Sensitive Exhibits, as detailed below, are composed almost entirely of sensitive confidential information and cannot be effectively redacted in a manner that would provide any meaningful content to the public without exposing confidential information. Accordingly, good cause exists for sealing the Sensitive Exhibits in their entirety.

The other documents Petitioner hereby moves to seal, for which redacted non-confidential versions have been or are being filed, reference sensitive

confidential information from the Sensitive Exhibits or from other sensitive documents that Petitioner has previously moved to seal in these proceedings, as discussed in detail below. To ensure that the public has access to a complete and understandable file history without disclosing RPX's confidential information, Petitioner has tailored its redactions to the Sanctions Opposition, the Exhibits Lists, and Exhibits 2027 and 2030 as narrowly as possible. Petitioner also believes Patent Owner's previously filed redactions to the Preliminary Response and the Sur-Reply to be narrowly tailored. Most of the confidential information is not relevant to the substantive issues in these proceedings. As discussed below, even if the Board finds the existence of some of the confidential information to be relevant, the specific details revealed in the documents is not necessary for the public to understand these proceedings, and the harm to RPX of disclosure of such details far outweighs any public need to access this detailed information.

The information Petitioner hereby moves to seal falls into five categories addressed separately below. There is good cause for sealing the information in each of these categories, and there are different reasons for the sensitivity of the information in each. If the Board were to decide that the information in any particular category should not be kept under seal, Petitioner requests the opportunity to provide revised redacted copies of the documents to preserve the confidentiality of the other categories of sensitive information.

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