

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 FOURTH 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 37 C.F.R. §§ 42.14. and 42.54 and the Revised Protective Order entered by the Board (*see* Ex. 3001), Petitioner RPX Corporation (“Petitioner” or “RPX”), by and through its counsel of record, moves to seal: (1) portions of Petitioner’s Opening Brief (hereinafter “the Opening Brief”) filed herewith in these remand proceedings for IPR2015-01750, IPR2015-01751 and IPR2015-01752; (2) the entirety of the below-listed “Unredactable Exhibits” that accompany the Opening Brief; and (3) portions of the below-listed “Redacted Exhibits” that accompany the Opening Brief.²

<u>Unredactable Exhibits</u>	<u>Description</u>
1074	RPX Form Membership Agreement
1075	RPX Form Membership Agreement
1076	Confidential Agreement
1077	Third Amendment to Membership and License Agreement
1078	Confidential Agreement
1079	Confidential Agreement
1080	Salesforce.com, Inc. Order Form
1081	Payment records by Salesforce to RPX
1091	RPX notice of production of confidential information to Salesforce
1092	E-mail thread responsive to RPX notice of production of confidential information to Salesforce
<u>Redacted Exhibits</u>	<u>Description</u>
1073	Second Declaration of William W. Chuang
1090	Declaration of Steve W. Chiang
1094	Transcript of deposition of Steve W. Chiang, taken January 29, 2019
1095	Transcript of deposition of William W. Chuang, taken January 30, 2019

² This Motion uses the Exhibit numbers and Paper numbers from IPR2015-01750.

The Opening Brief, the Unredactable Exhibits, the Redacted Exhibits, and redacted non-confidential versions of the Opening Brief and the Redacted Exhibits are being filed concurrently with this Motion.

The Opening Brief, the Unredactable Exhibits, and the Redacted Exhibits contain highly confidential and extremely sensitive information, including, *inter alia*, highly confidential IPR litigation strategy that RPX employs to pursue its business, and highly confidential agreements, financial information, communication records, and references thereto. RPX guards its confidential information to protect its own business as well as third parties, and is contractually obligated to keep certain of this information confidential. RPX, therefore, respectfully requests that the Unredactable Exhibits in their entirety, the redacted portions of the Redacted Exhibits, and the redacted portions of the Opening Brief 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 weighs heavily in favor of protecting RPX's highly confidential information.

The Unredactable Exhibits, as detailed below, are composed 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 Unredactable Exhibits in their entirety.

As discussed in detail below, the other documents Petitioner hereby moves to seal, for which redacted non-confidential versions are being filed concurrently herewith (namely, the Opening Brief and the Redacted Exhibits), reference sensitive confidential information, including information from the Unredactable Exhibits and from other sensitive documents that the Board has already sealed in these proceedings in response to one or more previous motions to seal filed by Petitioner. 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 as narrowly as possible.

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.

A. Confidential Agreements

The Board previously granted (in Paper No. 53) Petitioner's motion (in Paper No. 27) to seal Exhibits 1020-1022, which are confidential agreements that detail sensitive confidential aspects of business relationships involving third parties, including highly confidential and sensitive financial terms. These agreements, by their explicit terms, require RPX to keep them confidential (Ex. 1020 at §§ 4 and 9.9), and the Board recognized that their sensitive details should be kept under seal to protect not only RPX but also third parties with whom RPX has confidential business relations. *See* Paper No. 53.

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