

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 SIXTH 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, the Revised Protective Order entered by the Board (*see* Ex. 3001), and the Board’s Order of June 5, 2019 (Paper 113)² in these remand proceedings for IPR2015-01750, IPR2015-01751 and IPR2015-01752 (collectively, “Remand Proceedings”), Petitioner RPX Corporation (“Petitioner” or “RPX”), by and through its counsel of record, moves to seal: (1) portions of the transcript of the April 25, 2019 Oral Hearing (Paper 112) (“Remand Hearing Transcript”); (2) portions of Petitioner’s Demonstrative Exhibits for the April 25, 2019 Oral Hearing (Exhibit 1098); and (3) portions of Patent Owner’s Demonstrative Exhibits for the April 25, 2019 Oral Hearing (Exhibit 2037).

Redacted, non-confidential versions of the Remand Hearing Transcript, Exhibit 1098, and Exhibit 2037 are being filed concurrently with this Motion.

The Remand Hearing Transcript (Paper 112) and the parties’ demonstrative exhibits (Exhibits 1098 and 2037) 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

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

confidential. RPX, therefore, respectfully requests that the redacted portions of the Remand Hearing Transcript (Paper 112), the redacted portions of Exhibit 1098, and the redacted portions of Exhibit 2037 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.

As discussed in detail below, the Remand Hearing Transcript and the parties’ demonstrative exhibits, for which redacted, non-confidential versions are being filed concurrently herewith, reference sensitive confidential information, including information from the “Unredactable Exhibits” subject to Petitioner’s pending Fourth Motion to Seal filed on March 1, 2019 (Paper 97), from documents subject to Petitioner’s pending Fifth Motion to Seal filed on April 5, 2019 (Paper 105), 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.

On March 1, 2019, as part of these Remand Proceedings, Petitioner also moved to seal additional confidential agreements, which include highly confidential terms and aspects of business relationships and by their explicit terms require that RPX treat them as confidential, and moved to seal references in Exhibits 1073, 1094, and 1095 to such detailed information in confidential agreements. *See* Paper No. 97 at 5-6.

References in the Remand Hearing Transcript (Paper 112), Petitioner's Demonstrative Exhibits (Exhibit 1098), and Patent Owner's Demonstrative Exhibits (Exhibit 2037) to the detailed information in the above confidential agreements, which RPX is obligated to treat as confidential, correspond to the following redactions:

- Remand Hearing Transcript (Paper 112) at pages 19, 23, 24, 33, 37, 39, 40, 41, 44, 45, 46, 47, 48, 51, 55, 59, 60, 65, and 72.
- Exhibit 1098 at slides 2, 8, 19, 20, 21, 22, 30, 44, 61, 70, 71, 72, 75, 79, and 82.

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