

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 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 Protective Order filed in these proceedings, Petitioner RPX Corporation (“RPX”), by and through its counsel of record, moves to seal Exhibits 1019-1025 that accompany Petitioner’s Reply to Patent Owner’s Preliminary Response on Real-Party-In-Interest (RPI) (hereafter “Reply”) filed in IPR2015-01750 and IPR2015-01751, and the identical corresponding Exhibits 1119-1125 that accompany the identical Reply filed in IPR2015-01752 (collectively hereafter “the Exhibits”)². RPX also requests that the Reply be sealed in all three proceedings. The Exhibits, the Reply, a redacted non-confidential version of Ex. 1019, and a redacted non-confidential version of the Reply are being filed concurrently with this Motion. An executed copy of the Protective Order, as stipulated to by the parties, was filed by Petitioner RPX as Exhibit 1017 in IPRs 2015-01750 and -01751, and as Exhibit 1117 in IRP2015-01752.

The Exhibits and the Reply 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 and communication records. RPX guards this information to protect its own business as well as third parties and is contractually obligated to keep

² The citations below are to the Exhibit numbers used in IPR2015-01750 and IPR2015-01751.

certain agreements confidential. RPX, therefore, respectfully requests that portions of Ex. 1019, the other Exhibits in their entirety, and portions of the Reply be sealed. 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 CERTAIN 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.

Exhibit 1019 is a declaration from William Chuang, VP of Client Relations at RPX. Mr. Chuang describes RPX's IPR litigation strategy, including the reasons RPX files IPRs in general and the reasons it filed these IPRs against the AIT patents. Mr. Chuang also summarizes confidential communications and agreements.

Exhibits 1020-1022 are confidential agreements. These Exhibits detail confidential aspects of business relationships and by their explicit terms require that RPX treat them as confidential.

Exhibits 1023 and 1025 are post-filing confidential communications between RPX and a third party that refer to terms of confidential agreements and sensitive, improper disclosures of confidential information by Patent Owner.

Exhibits 1024 and 2018 are confidential RPX business records that reveal RPX's IPR litigation strategy.

As should be appreciated from the foregoing, portions of Ex. 1019 and the other Exhibits in their entirety, along with portions of the Reply that reference them, contain extremely sensitive information, including information regarding RPX's IPR litigation strategy, and details of RPX's business agreements with third parties. Such information should be kept under seal to protect not only RPX but also those third parties. Disclosure of this information would severely impact RPX's ability to conduct business by providing confidential information to others regarding its IPR litigation strategy and business objectives, and by creating confidentiality concerns among third parties that interact with RPX. Accordingly, good cause exists for keeping portions of Ex. 1019, the other Exhibits in their entirety, and portions of the Reply under seal.

To ensure that the public has access to a complete and understandable file history without disclosing RPX's confidential information, Petitioners have tailored the redactions in the Reply and Ex. 1019 as narrowly as possible. None of the redacted information is relevant to any issue related to the Board's determination of

patentability, and much of the detailed information is not relevant to RPI. As such, the public interest in this information is limited and the public does not require access to this information.

The Board recently held that good cause existed to keep similar information confidential. *See Unified Patents Inc. v. Dragon Intellectual Property, LLC*, IPR2014-01252, Paper 40 (Feb. 27, 2015) at 6 (holding good cause existed to seal the identities of Petitioner's members); at 6-7 (membership terms and business strategies are highly sensitive confidential information); and at 7 (financial information can be sealed where reasonable redactions were proposed and the financial information was not relevant to underlying arguments about real party in interest); see also *Farmwald and RPX v. Parkervision*, IPR2014-00948, Paper 58 (July 30, 2015) at 3-4 finding good cause and granting Petitioners' motion to seal confidential information including RPX's business objectives, litigation strategy and information about RPX's clients/members. The same rationale applies to this case, and Petitioner respectfully requests that portions of Ex. 1019, the other Exhibits in their entirety, and portions of the Reply be kept under seal.

II. CERTIFICATION OF NON-PUBLICATION STATUS

Petitioner's undersigned counsel certifies that the information sought to be sealed by this motion has not been published or otherwise made public to the best of his knowledge. The Board's Order granting discovery makes reference to

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