

Filed on behalf of:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION,

Petitioner

v.

BOSTON SCIENTIFIC SCIMED, INC.,

Patent Owner

Case No. IPR2017-00444

Patent 6,915,560

JOINT MOTION TO SEAL UNDER 37 C.F.R. § 42.54

I. STATEMENT OF RELIEF REQUESTED (37 C.F.R. § 42.22(a)(1))

Pursuant to 37 C.F.R. § 42.54, Petitioner Edwards Lifesciences Corporation (“Edwards”) and Patent Owner Boston Scientific Scimed, Inc. (“Boston”) collectively “the Parties,” hereby jointly move to seal Exhibit 1128 and related portions of the Reply brief, which include Boston Scientific Scimed, Inc. (“Boston’s”) confidential business and technical information.

Edwards is concurrently filing the Reply brief with the confidential portions redacted.

II. FULL STATEMENT OF REASONS FOR RELIEF REQUESTED

(37 C.F.R. § 42.22(a)(2))

The Parties jointly request that Boston’s confidential business and technical information, contained in Exhibit 1128 and related portions of the Reply brief, originating from a document produced as part of the co-pending District Court Action, *Boston Scientific Corp. and Boston Scientific Scimed, Inc. v. Edwards Lifesciences Corp., Civil Action No. 8:16-cv-0730 (C.D.Cal.)* (“District Court Action”), be sealed because good cause exists for sealing the confidential information contained therein. The exhibit was produced by Boston as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to a Protective Order entered in the District Court Action. Edwards is concurrently filing a redacted version of its Reply that will be publicly available.

A. Good Cause Exists For Sealing

The Office Patent Trial Practice Guide provides that “the rules aim to 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.” 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). The parties submit that this Motion to Seal protects Boston’s sensitive information, while not significantly impacting the public’s interest in maintaining a complete and understandable file history. Concurrently with its submission of the confidential exhibit and related portions of the Reply brief which the Parties request be sealed, Edwards will file a public version of the Reply brief with only Boston’s sensitive information redacted.

Exhibit 1128 is an invention disclosure by the named inventor on U.S. Patent No. 6,915,560. Exhibit 1128 includes information considered sensitive by Boston. Accordingly, the Parties seek to seal the exhibit and the unredacted portion of the Reply brief discussing the contents of the exhibit.

III. CERTIFICATION OF NON-PUBLICATION

On behalf of the Parties, undersigned counsel certifies that, to the best of its knowledge, the information sought to be sealed by this Motion to Seal has not been published or otherwise made available to the public. Efforts to maintain the confidentiality of this information have been undertaken by Boston.

IV. CERTIFICATION OF CONFERENCE (37 C.F.R. § 42.54)

The Parties have previously conferred in good faith via telephone and email and agreed to the terms of a modified version of the Board's Default Protective Order. *See* Paper 14.

V. PROPOSED PROTECTIVE ORDER

The Parties' proposed Standing Protective Order, to which the Parties have agreed to be bound in this matter, is a slightly modified version of the Board's Default Protective Order. *See* Paper 14.

VI. CONCLUSION

In accordance with the above, the Parties submit that they have complied with the formal requirements of a Motion to Seal and have provided sufficient basis to justify placing the unredacted versions of Exhibit 1128 and related portions of its Reply Brief under seal. Therefore, the Parties respectfully request that the Board grant this Motion.

Dated: December 15, 2017

Respectfully Submitted,

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