

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS INC.  
Petitioner

v.

UNIVERSAL SECURE REGISTRY LLC  
Patent Owner

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IPR2018-00067  
Patent 8,577,813

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**PETITIONER'S MOTION TO EXPUNGE CONFIDENTIAL  
INFORMATION**

Pursuant to 37 C.F.R. § 42.56, Petitioner, Unified Patents Inc. (“Unified” or “Petitioner”), hereby requests that certain confidential information in the record be expunged. Specifically, Petitioner respectfully submits that: (i) Paper 28, Patent Owner’s Response Pursuant To 37 CFR § 42.120 (Confidential Version); (ii) Paper 39, Petitioner’s Reply (Confidential Version); (iii) Paper 48, Confidential Corrected Patent Owner’s Response; (iv) Paper 49, Confidential Corrected Patent Owner’s Response (Redline); (v) Paper 54, Final Written Decision (Confidential Version); (vi) Exhibit 2011, Membership Agreement; (vii) Exhibit 2012, Subscription Fees; (viii) Exhibit 2017, Patent Owner’s Oral Hearing Demonstratives (Confidential Version); (ix) Exhibit 1036, Declaration of Kevin Jakel (Confidential Version); and (x) Exhibit 1037, Deposition Transcript of Kevin Jakel (Confidential Version) (collectively, the “Confidential Documents”) should be expunged from the record as these pleadings and exhibits contain Petitioner’s highly confidential business information.

This motion is being timely filed within 45 days from the Final Written Decision. *See* Office Patent Trial Practice Guide (“Trial Practice Guide”), 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012). For the reasons set forth below, Petitioner requests that the Confidential Documents be expunged. Patent Owner’s counsel indicated that while Patent Owner does not believe the information to be confidential, Patent Owner does not intend to file an opposition.

## **I. Applicable Legal Standards**

37 C.F.R. § 42.56 provides that “after final judgment in a trial, a party may file a motion to expunge confidential information in the record.” Likewise, the Trial Practice Guide states:

There is an expectation that information will be made public where the existence of the information is referred to . . . in a final written decision following a trial. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public.

Trial Practice Guide, 77 Fed. Reg. at 48761. A party seeking expungement from the record must show good cause by demonstrating “that any information sought to be expunged constitutes confidential information, and that Petitioner’s interest in expunging it outweighs the public’s interest in maintaining a complete and understandable history of this *inter partes* review.” *Atlanta Gas Light Co. v. Bennett Regulator Guards, Inc.*, IPR2013-00453, Paper 97 at 2 (P.T.A.B. Apr. 15, 2015).

## **II. Reasons for Relief Requested**

### **A. Procedural Background**

The Board granted the parties’ Joint Motion for Entry of a Protective Order. Paper 55 (Order granting Joint Motion); Paper 24 (Joint Motion); Ex. 2001 (Protective Order). Two unopposed Motions to Seal have been filed in this proceeding (Paper 37 and Paper 55), collectively requesting that the Board maintain

the Confidential Documents under seal. As indicated in the Motions to Seal, the Confidential Documents contain confidential, sensitive business information that has not been published or made public. *See* Paper 37 at 1; Paper 55 at 4-10. The Confidential Documents contain, *inter alia*, Petitioner's highly confidential members' identities, Petitioner's highly confidential agreements, membership terms, and business strategy; and Petitioner's highly confidential financial information. *See id.*

The Board granted Petitioner's Motion to Seal (Paper 55), ordering that the Confidential Documents that were filed by the parties remain under seal with restricted, non-public access. Paper 58. The Board also authorized the parties' filings of the following redacted, publicly-available versions of certain Confidential Documents: Paper 38 (Redacted Version of Reply, Paper 39); Paper 27 (Redacted Version of Patent Owner Response, Paper 28); Paper 50 (Redacted Version of Corrected Patent Owner Response, Papers 48 and 49); Exhibit 1043 (Redacted Version of Exhibit 1036); Exhibit 1044 (Redacted Version of Exhibit 1037).<sup>1</sup> *See*

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<sup>1</sup> The only Confidential Documents for which a corresponding public, redacted version was not filed were Exhibits 2011 and 2012, which contained highly confidential and sensitive information in their entirety and which Petitioner moved to seal in their entirety.

Paper 58. The Board also filed a redacted, public version (Paper 59) of the confidential version (Paper 54) of the Final Written Decision, removing certain highly confidential information, including information regarding the highly confidential membership status of certain members. *See* Paper 59.

**B. Good Cause Exists for Expunging the Confidential Documents**

All of the Confidential Documents contain Petitioner's highly confidential business information, which Petitioner guards in order to protect its own business as well as its members. Specifically, the Confidential Documents contain highly confidential and sensitive business information regarding the identity of certain of Petitioner's members that is non-public and could cause competitive business injury to Petitioner and expose Petitioner to potential breach of contractual obligations by Petitioner if publicly disseminated. Paper 55 at 4-10. The Confidential Documents also contain highly confidential information regarding Petitioner's internal business operations, business plans, business strategy, financial information, membership information, and other sensitive business information that is non-public and could cause competitive business injury to and potential breach of contractual obligations by Petitioner if publicly disseminated. *Id.* The Confidential Documents also include

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*See* Paper 55. The Board granted Petitioner's request to seal these two exhibits in their entirety. *See* Paper 58.

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