

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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UNIFIED PATENTS, LLC  
Petitioner

v.

BRADIUM TECHNOLOGIES LLC  
Patent Owner

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IPR2018-00952  
U.S. Patent 9,253,239

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**MOTION TO EXPUNGE CONFIDENTIAL INFORMATION**

## **I. Introduction**

Pursuant to 37 C.F.R. § 42.56, Petitioner, Unified Patents, LLC (“Petitioner”), hereby requests that certain confidential information in the record be expunged. This motion is timely filed prior to the information becoming public. See Office Patent Trial Practice Guide (“Trial Practice Guide”), 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012). For the reasons set forth below, Petitioner respectfully requests that certain papers and documents be expunged.

Specifically, Petitioner hereby requests that the following documents currently either under seal or awaiting a decision under a motion to seal be expunged from the record as these documents contain Petitioner’s highly confidential business information:

- Exhibit 2008 – Petitioner’s Member Agreement
- Exhibit 2009 – Petitioner’s Subscription Form
- Exhibit 2013 - Petitioner’s Voluntary Interrogatory Responses of Kevin Jakel;
- Exhibit 2004 – Deposition Transcript of Kevin Jakel;
- Paper 19 – Patent Owner Preliminary Response (POPR);
- Paper 25 – Reply to POPR;
- Paper 30 – Sur-Reply to POPR;
- Paper 38 – Patent Owner Response (POR);

- Paper 45 – Sur-Reply to POR; and
- Paper 60 – Final Written Decision.

## II. Applicable Legal Standards

37 CFR § 42.56 provides that following “denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record.” Similarly, the Trial Practice Guide states that “[t]here is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial.” Trial Practice Guide, 77 Fed. Reg. at 48,761. However, the Trial Practice Guide also states that a party “seeking to maintain the confidentiality of information . . . may file a motion to expunge the information from the record prior to the information becoming public.” 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).

## III. Good Cause Exists For Expunging the Confidential Papers and Documents

In this proceeding, the Board has granted Petitioner’s Motion to Seal the confidential information contained in Exhibits 2008 and 2009. *See* Final Written Decision, Paper 60, at 76. The Board further denied *without prejudice* Petitioner’s Motions to Seal Exhibit 2013, Exhibit 2004, Paper 19 (POPR), Paper 25 (Reply to POPR), Paper 30 (Sur-Reply to POPR), Paper 38 (POR), and Paper 45 (Sur-Reply to POR). *See i.d.*, at 76-78. However, the Board authorized Petitioner to file a Renewed Motion to Seal related to these documents as well as the Final Written Decision. *See* Order, Paper 62. The Board has not yet acted on Petitioner’s Renewed Motion to Seal (Paper 70).

Redacted versions of the remaining documents containing confidential information have been filed in this proceeding. The following table summarizes the confidential documents (left column), with the corresponding redacted versions (right column):

<b>Sealed Document</b>	<b>Redacted Version of Document</b>
Exhibit 2008 - Petitioner’s Member Agreement	None - exhibit contains only confidential information <sup>1</sup>
Exhibit 2009 - Petitioner’s Subscription Form	None - exhibit contains only confidential information
Exhibit 2013 - Petitioner’s Voluntary Interrogatory Responses of Kevin Jakel	Exhibit 1032 – Petitioner’s Voluntary Interrogatory Responses of Kevin Jakel (Redacted)
Exhibit 2004 – Deposition Transcript of Kevin Jakel	Exhibit 1033 – Deposition Transcript of Kevin Jakel (Redacted)

<sup>1</sup> Exhibits 2008 and 2009 were sealed in their entireties. *See* Paper 60.

Paper 19 –POPR	Paper 63 – Petitioner’s Redacted Version of POPR
Paper 25 – Reply to POPR	Paper 64 – Petitioner’s Redacted Version of Reply to POPR
Paper 30 – Sur-Reply to POPR	Paper 65 – Petitioner’s Redacted Version of Sur-Reply to POPR
Paper 38 –POR	Paper 66 – Petitioner’s Redacted Version of POR
Paper 45 – Sur-Reply to POR	Paper 67 – Petitioner’s Redacted Version of Sur-Reply to POR
Paper 60 – Final Written Decision	Paper 68 – Petitioner’s Redacted Version of Final Written Decision

As set forth in the Motions to Seal (Papers 18, 24, 33, 53, and 70), the confidential documents contain Petitioner’s confidential and highly sensitive information, disclosure of which would adversely harm Petitioner. The information reflected in the documents is confidential, sensitive commercial information, including closely held information, related to Petitioner’s core business, membership terms, and business strategy and constitutes highly confidential business information, as well as trade secrets. Disclosure of Petitioner’s highly confidential business information would provide Petitioner’s competitors and would-be business rivals with a roadmap for replicating Petitioner’s unique, valuable business model and would reveal contractual business information between two parties produced voluntarily under a joint protective order. Were confidential information produced voluntarily under a joint protective order to be disclosed publicly, a producing party would have little incentive to engage in

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