

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC, ZTE (USA), INC.,  
SAMSUNG ELECTRONICS CO., LTD.,  
LG ELECTRONICS INC., HUAWEI DEVICE USA, INC.,  
HUAWEI DEVICE CO. LTD., HUAWEI TECHNOLOGIES CO. LTD.,  
HUAWEI DEVICE (DONGGUAN) CO. LTD.,  
HUAWEI INVESTMENT & HOLDING CO. LTD.,  
HUAWEI TECH. INVESTMENT CO. LTD., and  
HUAWEI DEVICE (HONG KONG) CO. LTD.,  
Petitioner,

v.

CYWEE GROUP LTD.,  
Patent Owner.

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IPR2018-01257  
Patent 8,552,978 B2

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Before PATRICK M. BOUCHER, KAMRAN JIVANI, and  
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

BOUCHER, *Administrative Patent Judge*.

DECISION  
Motions to Seal  
*37 C.F.R. § 42.14*

On September 5, 2019, we granted the parties' joint motion for entry of a protective order in this proceeding, filed as an attachment to Paper 56. Paper 68. In accordance with that protective order, Patent Owner has filed three Motions to Seal documents in this proceeding, none of which has been opposed by Petitioner. Papers 47 ("First Motion to Seal"), 63 ("Third Motion to Seal"), 67 ("Fourth Motion to Seal"). Petitioner has filed two Motions to Seal documents, one of which has been opposed by Patent Owner in part, with Petitioner filing a reply to Patent Owner's opposition. Papers 53 ("Second Motion to Seal"), 79 ("Fifth Motion to Seal"), 80 (opposition to Fifth Motion to Seal), 85 (reply to opposition to Fifth Motion to Seal). We address each of the motions as follows, in accordance with the standard for granting a motion to seal, which is good cause. 37 C.F.R. § 42.54(a).

#### I. FIRST AND THIRD MOTIONS TO SEAL

In the First Motion to Seal, Patent Owner moves to seal Exhibit 2031, a filed named Attitude.cpp, "which contains CyWee's sensor fusion code for the JIL phone." Paper 47; Ex. 2020 ¶ 11. Patent Owner asserts that the exhibit "contains valuable and sensitive commercial information of Patent Owner that is not available to the public," and that "[t]he same document is subject to the Protective Order entered in the related district court action." Paper 47, 1. Petitioner does not oppose this Motion, and we conclude, in light of the sensitivity of the information, that good cause exists to grant the First Motion to Seal.

In the Third Motion to Seal, Patent Owner moves to seal Exhibit 2034, which "is substantively identical to Exhibit 2031 but contains line

numbers for ease of readability.” Paper 63, 1. Patent Owner also moves to seal Exhibit 1043, which is a deposition transcript of Dr. Joseph LaViola. *Id.* According to Patent Owner, Exhibit 1043 “contains valuable and sensitive commercial information of Patent Owner that is not available to the public, namely, testimony regarding the source code filed as Exhibits 2031 and 2034.” *Id.* at 1–2. Petitioner has filed a redacted version of the transcript as Exhibit 1048. Petitioner does not oppose this Motion, and we conclude, in light of the sensitivity of the information in Exhibit 2034 and the portions of Exhibit 1043 that are redacted in Exhibit 1048, that good cause exists to grant the Third Motion to Seal.

## II. SECOND AND FOURTH MOTIONS TO SEAL

On August 9, 2019, Petitioner filed an opposition under seal to Patent Owner’s First Motion to Terminate (moving to terminate based on real-party-in-interest and privity issues). Paper 51. Petitioner concurrently filed a redacted, publicly available version of that opposition. Paper 52. The redaction in that version is of footnote 1, which Petitioner moves to seal in the Second Motion to Seal as “contain[ing] sensitive internal business information pertaining to the existence or non-existence of certain legal arrangements and/or business relationships.” Paper 53, 3. In doing so, Petitioner “certifies that the full extent of this information has not been published or otherwise been made public.” *Id.* Petitioner additionally contends that “the information would be valuable to competitors and harmful to Google if made public.” *Id.* at 4. Patent Owner does not oppose the Motion, and we conclude, in the context of the limited nature of the redaction, that good cause exists to grant Petitioner’s Motion.

On August 30, 2019, Patent Owner filed a reply under seal to Petitioner's opposition. Paper 65. Patent Owner concurrently filed a redacted, publicly available version of that reply. Paper 66. In addition, Patent Owner filed supporting documents as Exhibits 2045 and 2047, which are respectively a transcript of the deposition of Collin W. Park and correspondence between attorneys for Petitioner and Patent Owner. Patent Owner moves, in the Fourth Motion to Seal, to seal its unredacted reply, as well as Exhibits 2045 and 2047. Paper 67.

In doing so, Patent Owner does not address the standard for granting a motion to seal. *See generally id.* Nevertheless, we have reviewed the information redacted from the publicly available version of the reply, and conclude that good cause exists to grant Patent Owner's Motion with respect to the reply. We also conclude that good cause exists to seal Exhibit 2047. With respect to Exhibit 2045, we do not find sufficient cause to seal the entire deposition transcript, but we note that Petitioner has filed a redacted version of that exhibit as Exhibit 1049, with limited and appropriate redaction. Under such circumstances, we grant the entirety of the Fourth Motion to Seal.

### III. FIFTH MOTION TO SEAL

On November 7, 2019, Patent Owner filed a Supplemental Submission of Information (Paper 76), as well as Exhibits 2049–2056, under seal. Patent Owner concurrently filed a redacted, publicly available version of the Supplemental Submission of Information. Paper 77. Exhibits 2049–2055 have been filed in the Board's E2E system with designations that identify them only by Bates numbers.

In the Fifth Motion to Seal, Petitioner moves to seal “the entire content of the exhibits 2049-2056,” as well as the redacted portions of Patent Owner’s Supplemental Submission of Information. Paper 79, 2. Petitioner explains that “[t]he confidential information that Google moves to seal consists of non-public commercial agreements with a third party obtained from that party, pursuant to an order for additional discovery and under a protective order, in IPR2019-00143.” *Id.* at 3. Specifically, Patent Owner asserts that “the agreeme[nt]s in Exhibits 2049-2056 are confidential commercial agreements between parties, and the redacted portions of the CyWee submission refer to, interpret, or quote content from the agreements.” *Id.* In addition, according to Patent Owner, “[f]urther redactions in CyWee’s submission of citations to Exhibit 2014 are necessary to prevent cross-referencing.” *Id.* With respect to Exhibit 2056, Petitioner contends its sealing is “intended to preserve confidential material relating to agreements between defendants in litigation,” and “certifies that the full extent of this information has not been published or otherwise been made public.” *Id.* at 3–4.

Patent Owner opposes sealing the titles and dates of Exhibits 2049–2055, which it contends “disclose nothing more than the fact that Google and ZTE have business relationships, which appears to be a matter of public knowledge.” Paper 80, 3 (citing Daniel Van Bloom, *ZTE May Lose Android Licensing from Google, Report Says*, CNET (Apr. 17, 2018, 6:30 PM), <https://www.cnet.com/news/zte-may-lose-android-licensing-from-google-report-says>). Patent Owner otherwise “has no objection to the treatment of the substance of the documents as Highly Confidential Protective Order Material.” *Id.* Petitioner contests Patent Owner’s characterization by

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