

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

World Programming Limited
Petitioner

v.

SAS Institute Inc.
Patent Owner

Case IPR2019-01460
Patent 7,447,686

MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner, SAS Institute Inc. (“SAS”), respectfully submits this motion to seal Exhibits 2007-2009. SAS has conferred with Petitioner World Programming Limited (“WPL”) regarding this motion, and provided WPL with a draft thereof. However, given logistical and timing issues, SAS has not obtained WPL’s formal agreement to this motion. In any event, SAS believes that WPL will not oppose the substance of this motion.

Although “the default rule is that all papers filed in an *inter partes* review are open and available for access by the public,” a party may file a motion with the Board to seal confidential information that is protected from disclosure. *Garmin Int’l, Inc. v. Cuozzo Speed Techs., LLC*, IPR2012-00001, Paper No. 34 at 2 (PTAB March 14, 2013). “The standard for granting a motion to seal is ‘for good cause.’” *Id.* at 3 (quoting 37 C.F.R. § 42.54).

Good cause exists to place Exhibits 2007-2009 under seal because they are documents designated under a Court-issued protective order in *SAS Institute Inc. v. World Programming Limited et al.*, Case No. 5:10-cv-25-FL (E.D.N.C.). By so designating them under the District Court’s protective order, WPL has indicated that these documents contain confidential information related to, for example, intercompany relationships and transactions, and for purposes of this motion, SAS does not dispute that such is the case. Accordingly, in the context of this IPR proceeding, Exhibits 2007-2009, in their entirety, constitute confidential information

that should be protected from public disclosure by Federal Rule of Civil Procedure (“FRCP”) 26(c)(1)(G) and 37 C.F.R. § 42.54. Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012) (referring to FRCP 26(c)(1)(G) for protection of confidential information). By so designating these documents under the District Court’s protective order, WPL has further indicated that none of Exhibits 2007-2009, nor the information therein, has been made publicly available. Moreover, SAS is informed and believes that both parties have undertaken efforts to maintain the confidentiality of Exhibits 2007-2009 in accordance with the above-referenced District Court protective order.

On October 28 through November 6, the parties met and conferred in good faith regarding the PTAB’s Default Protective Order, and SAS agrees to be bound by the terms of that Order. SAS received comments on the proposed default protective order from WPL earlier today, too late to be negotiated and incorporated into this motion. A copy of the proposed protective order is attached herewith as Exhibit 2013, which is the same as the PTAB’s Default Protective Order set forth in Appendix B of the Trial Practice Guide Update (July 2019).

SAS therefore respectfully requests that aforementioned Exhibits 2007-2009 remain under seal, and that the agreed Default Protective Order be entered in this proceeding.

Respectfully submitted,

Dated: November 12, 2019

By: /Brenton R. Babcock/

Brenton R. Babcock (Reg. No. 39,592)
WOMBLE BOND DICKINSON (US) LLP
400 Spectrum Center Drive, Suite 1700
Irvine, CA 92618
T: (714) 557-3800
E: brent.babcock@wbd-us.com

Joshua P. Davis (Reg. No. 72,524)
WOMBLE BOND DICKINSON (US) LLP
811 Main Street, Suite 3130
Houston, TX 77002
T: (346) 998-7810
E: joshua.p.davis@wbd-us.com

Tony T. Chen (Reg. No. 67,414)
WOMBLE BOND DICKINSON (US) LLP
1841 Page Mill Road, Suite 200
Palo Alto, CA 94304
T: (408) 341-3061
E: tony.chen@wbd-us.com

Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Seal was served on November 12, 2019, via electronic mail, at the following:

Harper Batts (Reg. No. 56,160)
HBatts@sheppardmullin.com
Chris Ponder (Reg. No. 77,167)
CPonder@sheppardmullin.com
Jason Mueller (Reg. No. 64,647)
Jeffrey Liang (Reg. No. 69,043)
LegalTm-WPL-SAS-IPRs@sheppardmullin.com
Sheppard, Mullin, Richter & Hampton LLP
379 Lytton Ave.
Palo Alto, CA 94301

Counsel for Petitioner

Dated: November 12, 2019

/Brenton R. Babcock/

Brenton R. Babcock (Reg. No. 39,592)

Counsel for Patent Owner