

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ORACLE CORP.,
Petitioner,

v.

GUADA TECHNOLOGIES LLC,
Patent Owner.

IPR2020-00598
Patent 7,231,379 B2

Before MIRIAM L. QUINN, KIMBERLY McGRAW, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
35 U.S.C. § 317(b), 37 C.F.R. §§ 42.5, 42.74

Patent Owner requested authorization to file a motion to expunge the collateral agreement filed as Exhibit 2002 as containing highly-sensitive confidential information of Patent Owner and third parties. Patent Owner also requested that if the Board denies Patent Owner's request for authorization, the Board answer two questions: (1) Will the Board provide notice to the parties in the event a person requests access to the collateral agreement or if the Board decides to grant access to the collateral agreement under 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c); and (2). More generally, can the Board direct us to any references explaining the Board's procedure(s) in the event of such a request or grant?

In light of 35 U.S.C. § 317(b) and *DTN, LLC v. Farms Tech., LLC*, IPR2018-01412, Paper 21 (precedential) (denying motion to expunge collateral agreements filed as exhibits to motion to terminate), we deny Patent Owner's request for authorization to file a motion to expunge Exhibit 2002 for containing highly-sensitive confidential information of Patent Owner and third parties.

In response to Patent Owner's two questions regarding confidentiality, we note that the procedures regarding third-party requests for access to the confidential agreement are outlined in 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(c). In particular, 35 U.S.C. § 317(b) states that the agreement "shall be made available only to Federal Government agencies on written request, or to any person on a showing of good cause." Thus, the requirement for access by a third party (not a Federal Government agency) is a showing of good cause. This "good cause" showing is a high burden, such that showing need or an alleged nexus to the substance of an ongoing post-grant review is insufficient. Except for being the basis for regulatory and statutory

IPR2020-00598
Patent 7,231,379 B2

termination of the proceeding, confidential settlement agreements are irrelevant to issues raised in post-grant reviews, and, as such, the Board generally denies third-party requests for their disclosure. To date, a confidentially maintained settlement agreement filed with the Board has never been disclosed to a third party. In the rare event that the Board were to consider granting a request by a third party (not a Federal Government agency), the Board will notify the parties to the agreement and will provide an opportunity to respond to the request.

Accordingly, it is

ORDERED that Patent Owner's request for authorization to file a motion to expunge Exhibit 2002 is *denied*.

IPR2020-00598
Patent 7,231,379 B2

For PETITIONER:

James M. Heintz
Alireza Babaei
DLA PIPER LLP
jim.heintz@dlapiper.com
alireza.babaei@us.dlapiper.com

For PATENT OWNER:

Isaac Rabicoff
RABICOFF LAW
isaac@rabilaw.com