

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YITA LLC,
Petitioner,

v.

MACNEIL IP LLC,
Patent Owner.

Case IPR2020-01139
Patent No. 8,382,186

PATENT OWNER'S UNOPPOSED MOTION TO SEAL

On July 28, 2021, the Board granted Patent Owner MacNeil IP LLC's ("Patent Owner") motion to submit supplemental information, and authorized the filing of Exhibits 2114, 2115, 2126-2129, and 2132-2137 in this proceeding. *See* Paper 53 at 13. Exhibit 2126 is the Corrected Declaration of Ryan Granger, which is identical to Exhibit 2042 (already of record) except for the signature page. As detailed in Patent Owner's recent motion to seal (Paper 51), the Declaration of Ryan Granger contains Patent Owner's confidential business information, including confidential sales and gross revenue information. Patent Owner has filed confidential and redacted versions of Exhibit 2126 concurrently with this motion. Patent Owner moves to seal the confidential version of Exhibit 2126 pursuant to the Board's Default Protective Order entered in this proceeding. Paper 48. Patent Owner has met and conferred with Petitioner, and Petitioner does not oppose this motion.

Patent Owner addresses the *Argentum* standard below and respectfully requests that the Board find good cause to maintain Exhibit 2126 under seal. As noted above, Patent Owner recently filed a motion to seal its Patent Owner Response and Exhibit 2042, the Declaration of Ryan Granger. Paper 51. The present motion seeks to seal information in Exhibit 2126 that is identical to the information Patent Owner seeks to seal in Exhibit 2042.

I. The designated information, which is held in confidence and not shared with the public, should be protected under the default protective order.

Patent Owner’s commercial information, including the number of floor trays sold and annual gross revenue, is confidential to Patent Owner, a private company. EX2140. Patent Owner compiled this information from Patent Owner’s internal sales, marketing, and financial documentation. *Compare* EX2126, ¶73, with *Permobil Inc. v. Pride Mobility Prod. Corp.*, IPR2013-00411, Paper 40 at 2 (P.T.A.B. July 2, 2014) (recognizing confidentiality of non-public “company . . . marketing data”); IPR2013-00411, Paper 25 at 2 (P.T.A.B. May 20, 2014) (identifying this information as “internal company procedures on market data” and “company-confidential marketing information”). That Patent Owner does not attach documents from which the information was derived is irrelevant. The redacted information in Exhibit 2126 is confidential regardless of the document in which the information appears. Patent Owner does not publish this information, and it cannot be derived from public sources. EX2126, ¶¶79-80 (explaining Patent Owner’s tray sales to OEMs, who sell the trays under Patent Owner’s marks or under their own marks). On behalf of Patent Owner, undersigned counsel certifies the confidential information sought to be sealed has not, to their knowledge, been published or otherwise made public.

The Board has consistently sealed product sales and internal financial documents. *Quest USA Corp. v. PopSockets LLC*, IPR2018-00497, Paper 59 at 87-90 (P.T.A.B. Aug. 12, 2019) (sealing “sales data by year from 2014 to 2018”); *Endo Pharm, Inc. v. Depomed, Inc.*, IPR2014-00656, Paper 59 at 2 (P.T.A.B. June 3, 2015) (sealing “product sales”); *Cisco Sys., Inc. v. Crossroads Sys., Inc.*, IPR2014-01544, Paper 50 at 29 (P.T.A.B. Jan. 29, 2016) (sealing “confidential sales and licensing information”). The Board’s default protective order permits for protection of sensitive commercial information. Consolidated Trial Practice Guide, 19 (Nov. 2019) (defining “confidential information” to match Fed. R. Civ. P. 26(c)(1)(G), including “other . . . commercial information”); *Arista Networks, Inc. v. Cisco Sys., Inc.*, IPR2016-00309, Paper 51 at 2-3 (P.T.A.B. May 8, 2017) (accepting movant’s “representations” regarding “highly sensitive financial” information). And petitioner’s real party in interest similarly designated annual gross revenue as ATTORNEY EYES ONLY in the parties’ parallel district court proceedings.

II. Patent Owner would be harmed by public disclosure.

Public disclosure of this information would harm Patent Owner’s competitive position in the automotive accessory market. Patent Owner would be harmed by competitor insight into Patent Owner’s pricing and marketing decisions. For example, Patent Owner’s historical price per floor tray set can be determined from the redacted information. EX2126, ¶73. Patent Owner would be harmed by insight

into Patent Owner’s market share and the relevant market size, motivating copying and infringement of Patent Owner’s intellectual property, such as that leading to this proceeding. Public disclosure would also reveal Patent Owner’s corporate valuation and financial resources, causing competitive harm in negotiations relating to mergers & acquisitions, supplier agreements, and other commercial matters. *See Athena Automation Ltd. v. Husky Injection Molding Sys, Ltd.*, IPR2013-00167, Paper 32 at 2-3 (sealing information relating to the movant’s “valuation”).

III. Patent Owner genuinely relies on the designated information.

Patent Owner relies on the redacted information to establish commercial success of products embodying the claimed invention. Sales demonstrating market share of those products are probative evidence in establishing commercial success. *Cisco Systems, Inc. v. Crossroad Systems, Inc.*, IPR2014-01463, Paper 49 at 35 (P.T.A.B. Mar. 16, 2016) (“An important component of the commercial success inquiry is determining market share”); *Fox Factory, Inc. v. SRAM, LLC*, IPR2016-01876, Paper 59 at 35-36 (P.T.A.B. Apr. 2, 2018). Patent Owner’s genuine reliance on the information sought to be sealed only compounds the harm from public disclosure, which would force Patent Owner to abandon significant evidence of non-obviousness or expose sensitive business information.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.