

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
U.S. Patent No. 8,382,186

**PETITIONER YITA LLC'S MOTION UNDER 37 C.F.R. §§ 42.14 AND
42.54 TO SEAL EXHIBIT 1048 AND ENTER PROTECTIVE ORDER**

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U.S. Patent and Trademark Office
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I. INTRODUCTION

Petitioner Yita LLC (“Petitioner”), requests that the confidential version of Exhibit 1048 (“the Granger deposition transcript”) be sealed under 37 C.F.R. §§ 42.14 and 42.54. Good cause to seal the Granger deposition transcript exists because Patent Owner has represented that certain information in the Granger deposition transcript is sensitive, non-public information that a business would not make public. Petitioner therefore submits this Motion to Seal the confidential version of the Grainger deposition transcript (EX1048) under the Board’s Default Protective Order already entered in this case¹. (*See* Paper 48).

Pursuant to 37 C.F.R. § 42.54(a), Petitioner’s counsel conferred in good faith with Patent Owner’s counsel in an attempt to resolve any dispute about this Motion. Patent Owner does not oppose this motion.

II. GOVERNING RULES AND PTAB GUIDANCE

In determining whether to grant a Motion to Seal, the Board must find “good cause,” 37 C.F.R. § 42.54(a), and “strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information,” Consolidated Trial Practice Guide, November 2019 (“TPG”), 19. The Board identifies confidential information in a

¹ Petitioner currently takes no position on whether the information Patent Owner has indicated is confidential is, in fact, confidential.

manner “consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for ... confidential research, development, or commercial information.” TPG, 19.

Based on the procedure provided in the TPG, Petitioner seeks to prevent the disclosure of sensitive information that Patent Owner has represented is contained in the Granger deposition transcript.

III. IDENTIFICATION OF CONFIDENTIAL INFORMATION AND CERTIFICATION THAT THE CONFIDENTIAL INFORMATION SOUGHT TO BE PROTECTED HAS NOT BEEN MADE PUBLICLY AVAILABLE

Patent Owner has represented to Petitioner that certain information in the Granger deposition transcript is confidential and thus has not been published or otherwise made public.

To the best of Petitioner’s knowledge, the information sought to be sealed has not been published or otherwise made public.

IV. GOOD CAUSE EXISTS FOR SEALING THE CONFIDENTIAL INFORMATION.

Patent Owner has represented that public disclosure of the Granger deposition transcript would significantly harm Patent Owner.

The public interest also will not be harmed by granting this Motion to Seal the documents as “**PROTECTIVE ORDER MATERIAL**,” because a redacted

version of the Granger deposition transcript (incorporating redactions provided by counsel for Patent Owner) is filed publicly herewith.

In short, according to Patent Owner's representations about the information, granting this Motion to Seal would achieve "a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." 77 Fed. Reg. at 48,760. Therefore, good cause exists for granting this motion to seal.

V. RELIEF REQUESTED

For the reasons stated above, Petitioner requests that the Board seal and protect Exhibit 1048, the Granger deposition transcript under the Board's Default Protective Order already entered in this proceeding. (*See* Paper 48). Petitioner further requests that the Board seal and protect the confidential information in this document until such time as it receives and rules on this Motion.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

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