

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CODE200, UAB; TESO LT, UAB; METACLUSTER LT, UAB; AND

OXYSALES, UAB,

Petitioners

v.

LUMINATI NETWORKS LTD.,

Patent Owner

Case IPR2020-01266

Patent 10,257,319

PATENT OWNER LUMINATI NETWORKS LTD.'S MOTION TO SEAL

I. STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. §§ 42.14, 42.54, and 42.55, Patent Owner Luminati Networks LTD. (“Luminati”), respectfully moves to seal the following documents:

1. Exhibit 2006.
2. The sealed version of the Patent Owner’s Preliminary Response concurrently filed today.

A public/redacted version of the Patent Owner’s Preliminary Response will also be filed excluding reference to information from Exhibit 2006.

Exhibit 2006 consists of invalidity contentions, designated as “RESTRICTED – ATTORNEYS’ EYES ONLY” by Petitioners who are parties in the related case of *Luminati v. Teso Lt UAB et al.*, Case No. 2:19-cv-00395-JRG (E.D.Tex.) (the “Court Protective Order”). Good cause exists for sealing the identified document and the POPR which references information in it in accordance with a revised version of the Board’s Default Protective Order and standards governing sealing.

II. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

Generally, “a movant to seal must demonstrate adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.” *Argentum Pharms. LLC v. Alcon Research, LTD.*, IPR2017-01053, Paper 27, 4. Here, sealing is appropriate because the information Luminati seeks to seal has been designated as confidential pursuant to the Court Protective Order. *Luminati v. Teso Lt UAB et al.*, Case No. 2:19-cv-00395-JRG (E.D.Tex.) (ECF 70). Exhibit 2006 consists entirely of matter marked “RESTRICTED – ATTORNEYS’ EYES ONLY” under the Court Protective Order by the Petitioners who are parties to that case, such that redaction would not be practical, and if it is to be maintained as confidential, requires filing entirely under seal. Patent Owner therefore requests that Exhibit 2006 be sealed in its entirety, and that the sealed version of the POPR also be filed under seal. Patent Owner will file a public/redacted version of the POPR which eliminates information from Exhibit 2006.

Luminati understands that by designating what is in Ex. 2006 as “RESTRICTED – ATTORNEYS’ EYES ONLY” in the district court case, Petitioners were representing that public disclosure of that material would

cause concrete harm to them. For this reason, Luminati respectfully requests sealing of Petitioners' Exhibit 2006, and sealing the sealed POPR with a public/redacted version of the POPR to be filed.

In the event the Board decides to deny this motion, Luminati requests leave, before Exhibit 2006 or the sealed POPR is unsealed, to confer with Petitioners with regard to compliance with the Court Protective Order.

III. SUBMISSION OF PROPOSED PROTECTIVE ORDER

Pursuant to 37 C.F.R. § 42.55(a), Luminati requests that the Board enter the Default Protective Order (77 FED. REG. 48756, 48771 (Aug. 14, 2012)) found in Appendix B of the July 2019 Trial Practice Guide update, with several proposed changes, to keep it consistent with the Protective Order in *Luminati v. Teso Lt UAB et al.*, Case No. 2:19-cv-00395-JRG (E.D.Tex.) (ECF. 70). The changes are redlined in the concurrently-filed proposed protective order. Luminati will confer with Petitioners regarding agreement to be bound by this proposed protective order and will notify the Board with respect to the Parties' positions.

Respectfully submitted,

RUYAK CHERIAN LLP

Dated: October 26, 2020

/Thomas M. Dunham/
Thomas M. Dunham