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Subject: IPR2021-00144 - Guidance on Motion to Expunge

Dear Honorable Board,

Samsung-Petitioners in the subject IPR proceeding respectfully request the Board's guidance regarding the 45 day deadline, which is January 17, 2023, to move to expunge confidential information. A final written decision (non-public version) was issued December 1, 2022 determining no challenged claims unpatentable. The Board granted Samsung-Petitioner's unopposed motion to seal Exhibit 2028 in its entirety, and other filings referencing the contents of that Exhibit. See Paper 56. A notice of appeal is not due until 63 days after entry of the final written decision, while the motion to expunge is due 45 days after the final written decision. Because Petitioners may want to rely on the contents of the sealed Exhibit in an appeal, a motion by Petitioners to expunge that information seems inappropriate. We therefore request the Board's guidance on how to proceed.

Samsung-Petitioners moved to expunge similar information in the related IPR proceeding, IPR2021-00145. Neonode opposed that motion to preserve the record for appeal. The Board denied that motion without prejudice, and extended the time period for filing a renewed motion to expunge no later than 45 days after the final disposition of any appeals or remand proceedings from any such appeals. The Board also ordered that information subject to the Protective Order in that proceeding remain under seal.

Petitioners have conferred with Patent Owner on this issue, and Patent Owner does not oppose entry of an order in the -00144 proceeding similar to that entered in the -00145 proceeding outlined above.

The parties can be available for a call this week if necessary.

Best regards,

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