

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

MEMORYWEB, LLC,
Patent Owner.

IPR2021-01413
Patent 10,621,228 B2

Before LYNNE H. BROWNE, NORMAN H. BEAMER, and
KEVIN C. TROCK, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Unopposed Motions to Seal
Entering Protective Order
37 C.F.R. §§ 42.14, 42.54

On December 30, 2021, Unified Patents, LLC (“Petitioner”) filed a first Motion to Seal. Paper 10 (“First Motion”). In the First Motion, Petitioner moved to seal Exhibits 1023–1025, and 1029. *Id.* at 1. Petitioner also moved to enter a proposed Protective Order accompanying the First Motion. *See id.*, Appendix. Petitioner indicated that MemoryWeb, LLC (“Patent Owner”) does not oppose the First Motion or entry of the Protective Order. *Id.*

On June 14, 2022, Petitioner filed a second Motion to Seal. Paper 24 (“Second Motion”). In the Second Motion, Petitioner moved to seal portions of Patent Owner’s Response (“POR”) and Exhibit 2036, and the entirety of Exhibits 2028, 2030, 2032, 2033, and 2034. *Id.* at 1. Petitioner indicated that Patent Owner does not oppose the Second Motion. *Id.*

Under 37 C.F.R. § 42.14, the default rule is that all papers filed in such proceedings are available to the public. Only “confidential information” is subject to protection against public disclosure. 35 U.S.C. § 326(a)(7); 37 C.F.R. § 42.55. The Board also observes a strong policy in favor of making all information filed in *inter partes* review proceedings open to the public. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27, 3–4 (PTAB Jan. 19, 2018) (informative). The moving parties bear the burden of showing the requested relief should be granted. 37 C.F.R. § 42.20(c). To establish “good cause” for the requested relief, the Parties must make a sufficient showing 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

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in maintaining confidentiality outweighs the strong public interest in having an open record.

Argentum, Paper 27 at 3–4; *see also Corning Optical Commc 'ns RF, LLC, v. PPC Broadband, Inc.*, IPR2014-00440, Paper 46 at 2 (PTAB April 6, 2015) (requiring a showing that information has not been “excessively redacted”); *see also* 37 C.F.R. § 42.54(a).

First, Petitioner asserts that the redacted portions of the POR and Exhibit 2036, and the entirety of Exhibits 1023–1025, 1029, 2028, 2030, 2032, 2033, and 2034, contain confidential member agreements and information regarding business operations that Petitioner maintains as confidential trade secrets. Paper 10, 2; Paper 24, 2–3. Second, Petitioner asserts that several potential harms would result upon public disclosure, including exposing Petitioner’s business model and confidential business activities. Paper 10, 2–3; Paper 24, 3. Petitioner also asserts that it has a contractual obligation to maintain confidentiality of the information, and disclosure of the information would harm third parties not involved in the proceeding. Paper 10, 3; Paper 24, 3. Third, Petitioner asserts that there exists a genuine need in the trial to rely on the specific information to dispute Patent Owner’s assertions as to real parties-in-interest. Paper 10, 3; Paper 24, 4. Finally, Petitioner asserts that an interest in maintaining confidentiality of these documents outweighs the public interest “in having an *entirely* open record.” Paper 10, 3; Paper 24, 4.

With the motions to seal, Petitioner submits a proposed Protective Order that differs from the Board’s Default Protective Order. Paper 10, 6. Petitioner’s submitted Protective Order includes a “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” designation. *Id.* at 6, Appendix 1. Petitioner asserts that the Protective Order further limits access among the parties’ representatives and addresses the treatment of confidential material by the parties. *See id.* at 6–7, Appendix 4–6.

Analysis

Upon considering the Petitioner’s representations and arguments, the contents of the exhibits sought to be sealed in their entirety, the contents of the information sought to be redacted, we conclude that Petitioner has established good cause for sealing the requested documents.

Upon reviewing the proposed Protective Order (Paper 10, Appendix), we conclude that the differences from the Board’s Default Protective Order address the parties’ obligations and do not limit the Board’s authority in this proceeding.

ORDER

Accordingly, it is

ORDERED that Petitioner’s motion to enter the proposed Protective order (Paper 10, Appendix) is *granted*, and the Protective Order is entered;

FURTHER ORDERED that Petitioner’s requests to seal Exhibits 1023–1025, 1029, 2028, 2030, 2032, 2033, and 2034 are *granted*;

FURTHER ORDERED that Petitioner’s requests to seal redacted portions of Patent Owner’s Preliminary Response and Exhibit 2036 are *granted*.

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PETITIONER:

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