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Paper No. ____

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE DATA COMPANY TECHNOLOGIES INC.,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

Case No. IPR2022-00135
Patent No. 10,257,319

**PETITIONER'S PARTIAL OPPOSITION TO PATENT OWNER'S
NOVEMBER 23, 2022 MOTION TO SEAL (PAPER 26)**

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The portion of Patent Owner’s (“PO”) November 23, 2022 Motion to Seal (Paper 26) that seeks redaction of its expert Dr. Williams’ deposition transcript (Ex. 1081) should be denied because it fails to provide a showing of “good cause” sufficient to override the strong public policy in favor of making all information in an IPR open to the public. *Argentum Pharms. v. Alcon Research*, IPR2017-01053, Paper 27, 3 (Jan. 19, 2018) (informative).

“Good cause” requires (1) a “sufficient explanation as to why” the information sought to be sealed (or redacted) is, in fact, confidential, (2) a demonstration that it is not “excessively redacted,” and (3) a showing that the strong public interest in an open record is outweighed by “concrete harm” that a party would suffer from disclosure. *Id.*, 3-4.

As the Board explained in the Scheduling Order in this matter, “The Board has a strong interest in the public availability of trial proceedings. Redactions to documents filed in this proceeding should be limited to the minimum amount necessary to protect confidential information.” Paper 13, 3.

I. PROCEDURAL HISTORY

Concurrent with its Patent Owner Response (“POR”), PO filed a motion that sought (1) entry of a stipulated protective order and (2) to seal Exhibits 2018 and 2021-2024 in their entirety, and to redact Exhibits 2020 and 2044 and the POR. Paper 18.

Petitioner did not oppose the motion PO filed as Paper 18. The Board has not yet acted on that motion.

At the deposition of PO's expert Dr. Williams, PO's counsel designated the transcript (Ex. 1081) under the Protective Order. Ex. 1081, 100:5-9.

On November 16, 2022, Petitioner provisionally filed under seal Dr. Williams' deposition transcript (Ex. 1081) and Petitioner's Reply (Paper 23), which cited Ex. 1081. PO filed a provisional motion to seal. Paper 24.

Shortly thereafter, the parties met and conferred, and PO indicated that the Reply could be filed publicly. The Board subsequently made the Reply (Paper 23) available to the public.

Following the meet-and-confer, PO designated portions of Dr. Williams' transcript for redaction, as shown in the redacted Exhibit 1081 filed by Petitioner with PO's authorization on November 18, 2022.

Finally, on November 23, 2022, PO filed a motion to seal a source-code related exhibit (Ex. 2051) and the unredacted version of Exhibit 1081. Paper 26. Petitioner does not oppose sealing Exhibit 2051, but *does* oppose the remainder of the motion because the redactions to Exhibit 1081 are not appropriate.

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