

**From:** [Trials](#)  
**To:** [Ted Cannon](#); [Trials](#); [AXF-PTAB](#)  
**Cc:** [IPR50095-0046IP1](#); [AppleIPR127-1](#); [nstephens@fr.com](#); [patrick@fr.com](#); [dsmith@fr.com](#); [pking@fr.com](#); [2ial@knobbe.com](#); [2jzk@knobbe.com](#); [2jup@knobbe.com](#); [2jgh@knobbe.com](#)  
**Subject:** RE: IPR2022-01299 - Request for conference call, if necessary, regarding sealing of documents  
**Date:** Thursday, February 15, 2024 9:14:55 AM

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Counsel,

From the Board –

Public and Board and Parties Only versions of the oral hearing transcript have been entered as Papers 67 and 63, respectively. No formal motion to seal Paper 63 and Exhibit 1063 is required.

According to our Consolidated Trial Practice Guide (“CPTG”), “[c]onfidential information that is subject to a protective order ordinarily would become public 45 days after denial of a petition to institute a trial or 45 days after final judgment in a trial.” CPTG, 21–22. As such, confidential information will remain undisturbed pending any appeal, after which time, a party may file a motion to expunge the information from the record prior to the information becoming public. *Id.* at 22.

Regards,

Esther Goldschlager  
Supervisory Paralegal Specialist  
Patent Trial & Appeal Board  
U.S. Patent & Trademark Office

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**From:** Ted Cannon <Ted.Cannon@knobbe.com>  
**Sent:** Thursday, February 8, 2024 1:40 PM  
**To:** Trials <Trials@USPTO.GOV>  
**Cc:** IPR50095-0046IP1 <IPR50095-0046IP1@fr.com>; AppleIPR127-1 <AppleIPR127-1@knobbe.com>  
**Subject:** IPR2022-01299 - Request for conference call, if necessary, regarding sealing of documents

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Dear Board:

I write to request a conference call, if necessary, to request the following: (1) that the portion of the oral hearing transcript for the closed session of the oral hearing (Paper 63 at 44-61) be sealed and immediately re-designated in P-TACTS as accessible to the Board and parties only and (2) that the confidential version of Apple’s demonstrative exhibits (Exhibit 1063) remain sealed and accessible to the Board and parties only. Further information about each request is provided below.

**Oral Hearing Transcript.** The oral hearing was divided into a non-confidential portion (see

Paper 63 at 1-44) and a confidential portion (*see id.* at 44-61). The confidential portion refers to confidential exhibits that have been sealed. However, it appears the oral hearing transcript (Paper 63) was inadvertently issued as a single document accessible to the public. Masimo requests sealing of the confidential portion. If a formal motion to seal is required, Masimo requests immediate re-designation of the confidential portion as accessible to the Board and parties only pending resolution of the motion.

**Apple's Demonstrative Exhibits.** Apple filed confidential and non-confidential versions of Exhibit 1063, Apple's demonstrative exhibits. The confidential version is currently accessible to the Board and parties only but was not expressly addressed in the granted motions to seal. Because the confidential version includes information contained in confidential exhibits that have been sealed, Masimo requests that the confidential version remain sealed.

Counsel for the parties have conferred and Apple does not oppose these requests. Should the Board desire a conference call, counsel for the parties are available between 1:00 pm and 5:00 pm ET on February 9, 12, or 13. If necessary, Masimo is willing to file a formal motion to seal.

Respectfully,

Ted Cannon  
Counsel for Masimo

**Ted M. Cannon**

Partner

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