

## Nicholas Stephens

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**From:** Dan Smith  
**Sent:** Thursday, November 03, 2022 2:51 PM  
**To:** Ted Cannon; IPR50095-0046IP1; IPR50095-0046IP2; PTAB Inbound  
**Cc:** AppleIPR127-1; AppleIPR127-2  
**Subject:** RE: Motions to Seal and Protective Order - IPR2022-01299/-01300

Hi Ted,

We appreciate your bringing your proposed motions to seal and protective order to our attention, but having received the request just last night we're confused as to why Masimo didn't reach out earlier; to allow adequate time in advance of Masimo's preliminary response deadline for consideration of the questions that you've asked. We'll need time to consider the issues raised by your request and to confer with ITC counsel and with our client before we can meet and confer.

Allowing for that, we expect that we could meet and confer early next week. Can you please let us know your availability on Monday, Tuesday, and Wednesday?

If you require an answer to your questions today or tomorrow, the answer must be that we oppose because we haven't been provided adequate time for consideration. In that regard, if you reach out to the Board, please do not merely indicate our opposition, but instead provide them with a copy of this exchange to give them the context of our opposition.

With best,  
-Dan

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Dan Smith :: Principal :: Fish & Richardson P.C.

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**From:** Ted Cannon <Ted.Cannon@knobbe.com>  
**Sent:** Wednesday, November 2, 2022 6:50 PM  
**To:** IPR50095-0046IP1 <IPR50095-0046IP1@fr.com>; IPR50095-0046IP2 <IPR50095-0046IP2@fr.com>; PTAB Inbound <PTABInbound@fr.com>  
**Cc:** AppleIPR127-1 <AppleIPR127-1@knobbe.com>; AppleIPR127-2 <AppleIPR127-2@knobbe.com>  
**Subject:** Motions to Seal and Protective Order - IPR2022-01299/-01300

[This email originated outside of F&R.]

Counsel,

Masimo plans to file, on Friday, November 4, 2022, motions to seal (1) portions of its preliminary responses in IPR2022-01299 and IPR2022-01300 and (2) exhibits containing Masimo highly confidential information relevant to secondary considerations of non-obviousness. The same and similar information was submitted as CONFIDENTIAL BUSINESS INFORMATION in the ITC Investigation, and it should have the same level of protection in the IPRs. Accordingly, Masimo proposes the attached proposed protective order for these IPRs. The proposed protective order is based on the PTAB's Default Protective Order and has been modified to include protections for CONFIDENTIAL BUSINESS INFORMATION included in the ITC protective order. I have

attached the proposed protective order and a redline version to show changes from the PTAB's Default Protective Order.

Please let us know whether Apple will oppose Masimo's motions to seal and whether Apple agrees to entry of the proposed protective order. Please also let us know when you are available for a call tomorrow to meet and confer regarding the motions to seal and proposed protective order.

Thanks,

Ted

**Ted M. Cannon**

Partner

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