

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DAIFUKU CO., LTD. AND DAIFUKU AMERICA CORP.,
Petitioner

v.

MURATA MACHINERY, LTD.
Patent Owner

Patent 8,197,172

Issue Date: June 12, 2012

Title: AUTOMATED MATERIAL HANDLING SYSTEM FOR
SEMICONDUCTOR MANUFACTURING BASED ON A COMBINATION OF
VERTICAL CAROUSELS AND OVERHEAD HOISTS

Inter Partes Review No. IPR2015-00083

**JOINT MOTION TO EXPUNGE
CONFIDENTIAL INFORMATION FROM THE RECORD**

I. Relief Requested

The parties jointly request that the confidential information submitted in IPR2015-00083 (“the present IPR proceeding”) be expunged pursuant to 37 C.F.R. § 42.56. This motion is timely pursuant to the Board’s Order dated June 14, 2016 (Paper 65), granting the parties’ request to preserve the record pending appeal. The Board’s Order instructed the parties to contact the Board after conclusion of proceedings at the Federal Circuit. The parties have agreed that the record no longer needs to be preserved pending appeal and accordingly jointly request that the Board expunge the confidential information that was submitted in this matter. The Board authorized the parties to file this motion in an email dated October 12, 2016.

II. The Parties’ Confidential Information

During the present IPR proceeding, the parties submitted a number of briefs and exhibits pursuant to a stipulated protective order (*see* Paper 20 (Order granting Joint Motion for a Protective Order and entering Exhibit 1033, Proposed Protective Order)) and a series of motions to seal (Papers 26, 28, 30, 38, 52, and 57) that included confidential information. The information is confidential for the reasons provided in the Motions to Seal. Section 42.56 recites that “[a]fter denial of a petition to institute a trial or after final judgment in a trial, a party may file a

motion to expunge confidential information from the record.” The documents containing confidential information that the parties wish to expunge from the record are set forth in the table below. The table also identifies the motion to seal corresponding to each of the confidential documents, and identifies any redacted, public versions of those confidential documents that the parties filed with the Board.

<u>Confidential Paper or Exhibit For Expungement</u>	<u>Name/Description</u>	<u>Public Version</u>	<u>Prior Motion to Seal</u>
Paper 25	SEALED Patent Owner's Response to Petition for Inter Partes Review of U.S. Patent No. 8,197,172	Paper 27	Paper 26, 30
Paper 37	SEALED Petitioner's Reply	Paper 36	Paper 38
Paper 45	SEALED Patent Owner's Motion for Observation on Cross-Examination of Petitioner's Reply Witness	Paper 46	Paper 52
Paper 47	SEALED Patent Owner's Motion to Exclude	Paper 48	Paper 52
Paper 50	SEALED Patent Owner's Motion to Compel Routine Discovery	Paper 51	Paper 52

Joint Motion to Expunge
Confidential Information
From the Record
IPR2015-00083

<u>Confidential Paper or Exhibit For Expungement</u>	<u>Name/Description</u>	<u>Public Version</u>	<u>Prior Motion to Seal</u>
Paper 54	SEALED Response to Motion for Observation	Paper 55	Paper 57
Exhibit 1038	SEALED HSTS High-Speed Trans-Sort Development Plan	n/a	Paper 38
Exhibit 1040 (unredacted)	SEALED Second Declaration of Dr. Robert H. Sturges	Exhibit 1040 (redacted)	Paper 38
Exhibit 1041	SEALED Cleanway CLW-08 Maintenance Manual	n/a	Paper 38
Exhibit 1043 (unredacted)	SEALED Deposition Transcript of Wilmer R. Bottoms, Ph.D. 10/14/2015	Exhibit 1043 (redacted)	Paper 38
Exhibit 2016 (unredacted)	SEALED Declaration of Dr. Wilmer R. Bottoms Re: U.S. Patent Nos. 7,165,927, 7,771,153, and 8,197,172	Ex. 2016 (redacted)	Paper 26, 30
Exhibit 2022 (unredacted)	SEALED Declaration of Mr. Toyu Yazaki	Ex. 2022 (redacted)	Paper 26, 30
Exhibit 2026	SEALED Declaration of David Ben-Meir	Exhibit 2026	Paper 26, 30

Joint Motion to Expunge
Confidential Information
From the Record
IPR2015-00083

<u>Confidential Paper or Exhibit For Expungement</u>	<u>Name/Description</u>	<u>Public Version</u>	<u>Prior Motion to Seal</u>
Exhibit 2028	SEALED IBM Proposal for B/323 Anex - 300mm AMHS & ARHS, Proposal #06152004-001 June 15, 2004	n/a	Paper 26
Exhibit 2029	SEALED Muratec New OHT System SRC330 (IIC66)	n/a	Paper 26
Exhibit 2030	SEALED Muratec Operations Manual SRC330	n/a	Paper 26
Exhibit 2031	SEALED Approval Specifications for an SRC330	n/a	Paper 26
Exhibit 2033	SEALED SRC350 Users Manual	n/a	Paper 26
Exhibit 2037	SEALED Component Test Report (E- 00018055)	n/a	Paper 26
Exhibit 2038	SEALED SEMI S17- 0701 UTV Assessment Report	n/a	Paper 26
Exhibit 2039	SEALED OHT System for Semicon (20061018a)	n/a	Paper 26

<u>Confidential Paper or Exhibit For Expungement</u>	<u>Name/Description</u>	<u>Public Version</u>	<u>Prior Motion to Seal</u>
Exhibit 2041 (unredacted)	SEALED Deposition Transcript of Robert H. Sturges, Ph.D., P.E. 12/9/2015	Exhibit 2041 (redacted)	Paper 52
Exhibit 2042 (unredacted)	SEALED Deposition Transcript of Shuzo Nishino 12/18/2015	Exhibit 2042 (redacted)	Paper 52

III. The Parties' Confidential Information Should Be Expunged from the Record

The confidential information submitted by the parties should be expunged because it includes schematics, proposals, and operations information that reflect the parties' trade secrets. *See Otters Prods., LLC v. Speculative Prod. Design LLC*, IPR2014-01464, Paper 28 at 2-4 (P.T.A.B. Aug. 27, 2015) (holding confidential research, development, or commercial information should remain sealed). Further, the information should be expunged because it is generally not available to the public and "would be commercially harmful" to the parties if disclosed. *See id.* at 4; *see also* Papers 26, 30, 38, 52, and 57 (describing how the disclosure of confidential information would commercially harm the parties).

Expunging the parties' confidential information is also appropriate because the Board did not refer to any of the confidential information in its Final Written Decision (Paper 63). *See* Rules of Practice for Trials, 77 Fed. Reg. 48,612, 48,623

(Aug. 14, 2012) (“[T]here is an expectation that information be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or identified in a final written decision.”). Likewise, the parties did not disclose any confidential information during oral argument. *See* Paper 62 (Publicly-available Record of Oral Hearing). The parties’ confidential information is therefore not needed to understand the thrust of the Board’s Final Written Decision. Additionally, all of the briefs and, where practical, the exhibits, were submitted in redacted form. Thus, after expunging the sealed versions of these documents, the public will still have a substantively complete record of the proceedings. *See Greene’s Energy Grp., LLC, v. Oil States Energy Servs., LLC*, IPR2014-00216, Paper 27 at 5 (P.T.A.B. Sept. 23, 2014) (holding portions of exhibit containing confidential financial information should remain under seal where proposed redactions were reasonable and thrust of underlying argument of evidence was clearly discernable from redacted versions).

IV. Conclusion

For the foregoing reasons, the parties respectfully request that the documents containing confidential information be expunged from the record.

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Dated: October 14, 2016

Respectfully submitted,

/David L. McCombs/

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Joint Motion to Expunge Confidential Information From the Record was served on the following counsel on October 14, 2016 by email.

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