

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FREIGHTCAR AMERICA, INC.,
Petitioner,

v.

NATIONAL STEEL CAR LIMITED,
Patent Owner.

IPR2025-01046 (Patent 8,166,892 B2)
IPR2025-01047 (Patent 8,132,515 B2)
IPR2025-01048 (Patent 8,132,515 B2)¹

Before HYUN J. JUNG, NEIL T. POWELL, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

POWELL, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Motion to Seal and Entering Protective Order
37 C.F.R. §§ 42.14, 42.54

¹ This Order addresses issues that are the same in the identified cases. The Board exercises its discretion to issue one Order to be filed in each case. The parties are not authorized to use this caption without express permission from the Board.

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Patent Owner filed a Motion to Seal. Paper 6 (“Motion” or “Mot.”).² Patent Owner “moves to seal confidential versions of its Patent Owner’s Request for Discretionary Denial of Institution Brief (“Discretionary Denial Brief”) and Exhibit 2007, and the entirety of Exhibits 2027, 2028, and 2033.” Mot. 1. Patent Owner also “moves for entry of, with Petitioner’s consent, a modified version of the Board’s Default Protective Order as Appendix A.” *Id.* Patent Owner represents that Petitioner agreed to the proposed protective order and does not oppose the Motion. *Id.*

The standard for granting a motion to seal is “for good cause.” 37 C.F.R. § 42.54(a). The moving party bears the burden to show entitlement to the requested relief and to establish that the information sought to be sealed is confidential information. *Id.* § 42.20(c). The “good cause” standard for granting a motion to seal reflects the strong public policy for making all information in an inter partes review open to the public. *Argentum Pharms. LLC v. Alcon Rsch., Ltd.*, IPR2017-01053, Paper 27 at 3 (PTAB Jan. 19, 2018) (informative).

Patent Owner persuades us that good cause exists for sealing the identified documents. As Patent Owner explains, the materials Patent Owner seeks to seal include confidential business information. Mot. 3–4.

Additionally, Patent Owner persuades that entry of its proposed protective order is warranted. Patent Owner explains that, compared to the Board’s default protective order, the proposed protective order adds a

² We cite to papers filed in IPR2025-01046. Patent Owner filed similar motions in each of IPR2025-01047 and IPR2025-01048. Those motions seek to seal similar papers and identical exhibits and move for entry of the same modified protective order.

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“PROTECTIVE ORDER MATERIAL – ATTORNEYS’ EYES ONLY” designation, along with certain accessibility restrictions for such materials. Mot. 5–6. We find the proposed protective order acceptable.

As a reminder, confidential information that is subject to a protective order ordinarily becomes public forty-five (45) days after final judgment in a trial. Consolidated Trial Practice Guide³ at 21–22. After final judgment in a trial, a party may file a motion to expunge confidential information from the record prior to the information becoming public in accordance with 37 C.F.R. § 42.56.

Accordingly, it is

ORDERED that Patent Owner’s Motion to Seal in each of the above-listed proceedings is *granted*; and

FURTHER ORDERED that the proposed protective order is entered in each of the above-listed proceedings.

³ USPTO, Patent Trial and Appeal Board Consolidated Trial Practice Guide November 2019, <https://www.uspto.gov/TrialPracticeGuideConsolidated> (“TPG”).

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