

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTERNATIONAL BUSINESS MACHINES CORPORATION,
Petitioner,

v.

SECURITY FIRST INNOVATIONS, LLC,
Patent Owner.

Case IPR2025-01200
Patent 8,271,802

**PATENT OWNER'S UNOPPOSED MOTION TO SEAL
EXHIBITS 2004, 2006, 2008–2011, 2015–2017, 2020–2021, 2026, AND
PORTIONS OF PATENT OWNER'S DISCRETIONARY DENIAL BRIEF**

TABLE OF CONTENTS

	Page(s)
I. GOOD CAUSE EXISTS TO SEAL EXHIBITS 2004, 2006, 2008–2011, 2015–2017, 2020–2021, AND 2026, AS WELL AS PORTIONS OF PATENT OWNER’S DISCRETIONARY DENIAL BRIEF AS CONFIDENTIAL PROTECTIVE ORDER MATERIAL.....	1
II. CERTIFICATION OF NON-PUBLICATION	6
III. CONCLUSION	6

TABLE OF AUTHORITIES

Page(s)

AGENCY DECISIONS

<i>Am. Nat’l Mfg. Inc. v. Sleep Number Corp.</i> , IPR2019-00497, Paper 114 (Sept. 30, 2020).....	5
<i>Argentum Pharms. LLC v. Alcon Res., Ltd.</i> , IPR2017-01053, Paper 27 (Jan. 19, 2018) (informative)	2
<i>Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC</i> , IPR2012-00001, Paper 37 (PTAB Apr. 5, 2013)	1
<i>Quest USA Corp. v. PopSockets LLC</i> , IPR2018-00497, Paper 59 (Aug. 12, 2019).....	4
<i>Unified Patents Inc. v. Velos Media, LLC</i> , IPR2019-00757, Paper 41 (Aug. 18, 2020).....	2

REGULATIONS

37 C.F.R. § 42.54	1
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Pursuant to 37 C.F.R. § 42.54, Patent Owner hereby moves to seal Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, 2026, and portions of Patent Owner’s Discretionary Denial Brief (Paper 9), which include confidential information, under the Board’s Default Protective Order submitted with the unopposed Motion For Entry Of Protective Order filed separately the same day as the present Motion. Petitioner does not oppose the Motion to seal with respect to Exhibits 2010, 2011, 2015, 2016, 2017, and 2026 and “takes no position on remaining exhibits labeled confidential.” *See* Ex. 3102.

I. GOOD CAUSE EXISTS TO SEAL EXHIBITS 2004, 2006, 2008–2011, 2015–2017, 2020–2021, 2026, AND PORTIONS OF PATENT OWNER’S DISCRETIONARY DENIAL BRIEF AS CONFIDENTIAL PROTECTIVE ORDER MATERIAL.

A party may file a motion to seal for good cause papers filed in an *inter partes* review along with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.

A moving party may show “good cause” for sealing documents containing confidential information. *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 37, 4 (Apr. 5, 2013).

In general, the Board’s “rules aim to strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive

information.” [Trial Practice Guide] at 19. The rules identify confidential information as “trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54). Applying the rules, the Board has required that “a movant to seal must demonstrate adequately that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record.”

Unified Patents Inc. v. Velos Media, LLC, IPR2019-00757, Paper 41, 23 (Aug. 18, 2020) (per Ullagaddi, J.) (granting petitioner’s motion to seal, quoting *Argentum Pharms. LLC v. Alcon Res., Ltd.*, IPR2017-01053, Paper 27, 4 (PTAB Jan. 19, 2018) (informative)).

The exhibits that Patent Owner moves to seal, Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, and 2026, (“Confidential Exhibits”) contain confidential and highly sensitive commercial information that would place Patent Owner at a disadvantage in its business operations if made public. The portions of Patent Owner’s Discretionary Denial Brief, which Patent Owner also moves to seal, reference this confidential information. Patent Owner believes that the materials which it moves to seal are highly relevant to the issues the Board will consider with respect to its request for discretionary denial of institution. As detailed below, good

cause thus exists for sealing the Confidential Exhibits and the portions of Patent Owner's Discretionary Denial Brief that discuss the Confidential Exhibits.

Exhibits 2004 and 2009–2011: Exhibits 2004 and 2009–2011 are confidential presentations between Security First Corporation (“SFC”) (SFI’s predecessor-in-interest) and IBM. These exhibits contain pre-suit presentations discussing technical details and business strategies which are marked as confidential. As such, Exhibits 2004 and 2009–2011 are designated as PROTECTIVE ORDER MATERIAL under the Default Protective Order. Petitioner does not oppose the motion as to exhibits 2010 and 2011 and “takes no position” on Exhibits 2004 and 2009. *See* Ex. 3102.

Exhibits 2006, 2008, and 2020–2021: Exhibits 2006, 2008, and 2020–2021 are communications between SFI’s predecessor-in-interest (SFC) and IBM. These exhibits contain pre-suit communications and negotiations discussing confidential and highly sensitive commercial information, as well as highly sensitive non-public technical details concerning both SFC’s technology and IBM’s technology. As such, Exhibits 2006, 2008, and 2020–2021 are designated as PROTECTIVE ORDER MATERIAL. Petitioner “takes no position” and, thus, does not oppose sealing Exhibits 2006, 2008, 2020, and 2021. *See* Ex. 3102.

Exhibits 2015–2017: Exhibits 2015 is a confidential Licensed Work Agreement and Exhibits 2016–2017 are Statements of Work between SFC and IBM. Public disclosure of this information potentially will significantly harm Patent

Owner's competitive position because it would allow competitors and potential customers to access sensitive information. As such, Exhibits 2015–2017 are designated as PROTECTIVE ORDER MATERIAL. Petitioner does not oppose the Motion as to Exhibits 2015-2017. *See* Ex. 3102.

Portions of Exhibit 2026: Patent Owner seeks to seal portions of Exhibit 2026 (Patent Owner's Opposition to Defendant's Motion for Stay in the underlying district court action, *Security First Innovations, LLC v. Int'l Bus. Machs. Corp.*, No. 1:25-cv-00514-CMH-WEF (E.D. Va.)). Exhibit 2026 references confidential information that was designated as such in the underlying litigation and is subject to a protective order or a pending motion to seal in that action. To maintain consistency with the protections afforded in the district court and to avoid undermining the confidentiality interests already recognized (or sought to be recognized) there, Patent Owner requests the same confidential portions be sealed in this proceeding. As such, Exhibit 2026 is designated as PROTECTIVE ORDER MATERIAL. Petitioner does not oppose the Motion as to Exhibit 2026. *See* Ex. 3102.

Portions of Patent Owner's Discretionary Denial Brief: Patent Owner also seeks to seal the portions of Patent Owner's Discretionary Denial Brief which reference the confidential information in Confidential Exhibits.

Disclosure of the above information could put Patent Owner at an irrevocable commercial disadvantage, for instance in subsequent negotiations with other entities

or persons. *See Quest USA Corp. v. PopSockets LLC*, IPR2018-00497, Paper 59, 88-90 (Aug. 12, 2019) (granting opposed motion to seal attorney’s-eyes-only highly confidential sales information of patent owner that had “never, to the best of Patent Owner’s knowledge, been made public” and “that Patent Owner aver[red] [wa]s confidential and would provide insight into closely held strategic business considerations”).

Although sealing the entirety of all of certain exhibits can be overbroad in some cases, the subject matter of Confidential Exhibits, the fact they are exhibits instead of papers, and the limited number of exhibits for which sealing is requested here warrant protection in this case. *See, e.g., Am. Nat’l Mfg. Inc. v. Sleep Number Corp.*, IPR2019-00497, Paper 114, 135 (Sept. 30, 2020) (“Although sealing the entirety of all of certain exhibits can be overbroad in some cases, our review of the subject matter and the limited number of exhibits in question warrants protection in this case.”).

As detailed in the accompanying unopposed Motion for entry of the Proposed Protective Order, Petitioners do not oppose the entry of the Board’s Default Protective Order.

Accordingly, Patent Owner requests the sealing of Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, and 2026, as well as portions of Patent Owner’s

Discretionary Denial Brief as PROTECTIVE ORDER MATERIAL under the unopposed Default Protective Order.

II. CERTIFICATION OF NON-PUBLICATION

On behalf of Patent Owner, undersigned counsel certifies the information identified in Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, 2026, and the portions of Patent Owner’s Discretionary Denial Brief sought to be sealed has not, to their knowledge, been published or otherwise made public.

III. CONCLUSION

In accordance with the above, Patent Owner submits that it has complied with the requirements for a Motion to Seal and has provided sufficient basis to place Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, 2026, and portions of Patent Owner’s Discretionary Denial Brief under seal. Therefore, Patent Owner requests that the Board seal Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, 2026, and portions of Patent Owner’s Discretionary Denial Brief as PROTECTIVE ORDER MATERIAL under the unopposed Protective Order.

Date: October 6, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the following documents were served by electronic service, by agreement between the parties, on the date below:

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EXHIBITS 2004, 2006, 2008–2011, 2015–2017, 2020–2021, 2026 AND
PORTIONS OF PATENT OWNER’S DISCRETIONARY DENIAL BRIEF**

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Date: October 6, 2025