

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 IPR2025-01201
Patent 8,904,194

**PATENT OWNER'S UNOPPOSED MOTION FOR ENTRY OF
DEFAULT PROTECTIVE ORDER**

Pursuant to 37 C.F.R. § 42.54, Patent Owner hereby moves for entry for good cause of the Board’s default protective order attached hereto as Appendix A (“Default Protective Order”), to protect against the disclosure of confidential information filed in this proceeding. It is respectfully requested that the Default Protective Order govern the confidential materials in this proceeding.

The parties have met and conferred regarding Patent Owner’s request for entry of the Default Protective Order, and Petitioner (1) does not oppose entry of the proposed Default Protective Order or (2) sealing Exhibits 2010, 2011, 2015–2017, and 2026 under the Default Protective Order, and (3) Petitioner takes no position on the remaining exhibits and discussion of confidential material in Patent Owner’s Discretionary Denial Brief (Paper 9) designated as confidential. Accordingly, this Motion is unopposed.

I. GOOD CAUSE EXISTS FOR SEALING CONFIDENTIAL INFORMATION

Under 35 U.S.C. § 316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public, and a party may file a motion to seal and the information at issue is sealed pending the outcome of the motion. *See* 37 C.F.R. § 42.14 (“The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal 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.”). The rules promulgated by the USPTO “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.” CTPG (Nov. 2019), 19; *see* 84 Fed. Reg. 64280 (Nov. 21, 2019). The moving party has the burden of establishing “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).

The proposed protective order that Patent Owner moves the Board to enter is the Default Protective Order. *See* Trial Practice Guide, Appx. A-1 (“The Board encourages the parties to adopt the Board’s default protective order if they conclude that a protective order is necessary.”) It is respectfully submitted that the Default Protective Order is necessary in this case and narrowly tailored to protect the confidential information at issue without significantly impacting the public’s interest in maintaining a complete and understandable file history. The confidential nature of the confidential presentations, pre-suit communications and negotiations, and licensing agreements that the parties will ask the Board to seal weighs in favor of granting entry of the Default Protective Order.

Patent Owner is separately filing a Motion to Seal, under the Default Protective Order, Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, and

2026 (“Confidential Exhibits”), and portions of Patent Owner’s Discretionary Denial Brief (Paper 9). As detailed in that Motion, with respect to each exhibit or paper that the Patent Owner seeks to seal, good cause exists for sealing these documents and granting this motion. The Confidential Exhibits that Patent Owner seeks to seal—Exhibits 2004, 2006, 2008–2011, 2015–2017, 2020–2021, and 2026—contain confidential presentations, pre-suit communications and negotiations, licensing agreements, and district court briefing that reference non-public technical, business, and commercial information. In addition, Patent Owner’s Discretionary Denial Brief contains references to this confidential information.

Patent Owner therefore respectfully requests that the Board grant this unopposed Motion for Entry of the Default Protective Order to allow for the potential sealing of Confidential Exhibits and portions of Patent Owner’s Discretionary Denial Brief.

**II. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY
PURSUANT TO 37 C.F.R. § 42.54**

Patent Owner has in good faith conferred with Petitioners. Petitioner does not oppose entry of the Default Protective Order, or the sealing of Exhibits 2010, 2011, 2015–2017, and 2026, and Petitioner takes no position on the remaining exhibits designated as confidential.

III. PROPOSED DEFAULT PROTECTIVE ORDER AND CERTIFICATION

Pursuant to the Trial Practice Guide, at 91, the Board's Default Protective Order is attached as Appendix A.

Pursuant to Appendix B of the Trial Practice Guide, at 111, Patent Owner certifies that it accepts and agrees to the terms of the Default Protective Order.

IV. CONCLUSION

In accordance with the above, Patent Owner requests that the Board enter the proposed Default Protective Order in this proceeding.

Respectfully submitted,

 / Kenneth J. Weatherwax /
Stephen J. Elliott (Reg. No. 52,858)
SULLIVAN & CROMWELL LLP

Kenneth J. Weatherwax (Reg. No. 54,528)
Nathan Lowenstein, *pro hac vice* pending
Colette Woo, *pro hac vice* pending
LOWENSTEIN & WEATHERWAX LLP

Date: October 6, 2025

APPENDIX A

UNITED STATES PATENT AND TRADEMARK OFFICE

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DEFAULT PROTECTIVE ORDER

DEFAULT PROTECTIVE ORDER

The following Default Protective Order will govern the filing and treatment of confidential information in the proceeding:

Default Protective Order

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.”

2. Access to confidential information is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) Parties. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.

(B) Party Representatives. Representatives of record for a party in the proceeding.

(C) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(D) In-house counsel. In-house counsel of a party.

(E) Support Personnel. Administrative assistants, clerical staff, court reporters and

other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

(F) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in (d)(2)(A)–(E), shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

4. Persons receiving confidential information shall use reasonable efforts to

maintain the confidentiality of the information, including:

- (A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;
- (B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;
- (C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and
- (D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

5. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

- (A) Documents and Information Filed With the Board.
 - (i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing

the Motion to Seal. The documents or information shall remain under seal unless the Board determines that some or all of it does not qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties. Documents (including deposition transcripts) and other information designated as confidential that are disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as “PROTECTIVE ORDER MATERIAL” and shall be produced in a manner that maintains its confidentiality.

6. Within 60 days after the final disposition of this action, including the

exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

(k) Standard Acknowledgement of Protective Order. The following form may be used to acknowledge a protective order and gain access to information covered by the protective order:

[CAPTION]

Standard Acknowledgment for Access to Protective Order Material

I _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the

Protective Order and providing remedies for its breach.

[Signature]

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:

**PATENT OWNER'S MOTION FOR
ENTRY OF DEFAULT PROTECTIVE ORDER**

The names and addresses of the parties being served are as follows:

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Respectfully submitted,

/ Michael Cosley /

Date: October 6, 2025