

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERUMO BCT, INC.,
Petitioner,

v.

HAEMONETICS CORPORATION,
Patent Owner.

CASE NO. PGR2025-00078
U.S. PATENT NO. 12,171,916

**PETITIONER'S MOTION TO SEAL, REQUEST FOR *IN CAMERA*
REVIEW, AND FOR ENTRY OF STIPULATED PROTECTIVE
ORDER**

Petitioner Terumo BCT, Inc. (“Terumo”) respectfully submits this Motion to seal its Search Disclosure Declaration (“Terumo’s SDD”), request *in camera* review of its SDD, and seek entry of a Proposed Modified Protective Order.¹

I. RELIEF REQUESTED

Along with the filing of this Motion, Terumo is submitting its SDD filed under “Filing Party and Board,” along with a redacted version of its SDD, following the confidentiality procedures outlined in Director Squires’ November 17, 2025 Memorandum regarding Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions (“Memorandum”). Memorandum at 2. Under 37 C.F.R. §§ 42.54 and 42.14, Terumo respectfully (1) moves to seal its SDD, filed as Exhibit 1014²; (2) requests *in camera* review of Terumo’s SDD; and (3) moves for entry of the proposed modified version of the Board’s Default Protective Order (“Modified Protective Order”) attached hereto as Exhibit A, with a redlined version provided as Exhibit B.

Good cause exists to seal, and the Memorandum authorizes sealing, the

¹ Director Squires’ November 17, 2025 Memorandum expressly authorizes Petitioner to file this Motion and thus Terumo did not independently seek the Board’s authorization. *See* Memorandum at 2.

² Terumo is concurrently filing a public redacted version as Exhibit 1015.

redacted portions of Terumo’s SDD. Good cause further exists for granting Terumo’s request for *in camera* review of Terumo’s SDD, as the redacted portions of Terumo’s SDD includes Terumo’s information that is protected by the attorney work product privilege. Patent Owner, Haemonetics Corporation (“Patent Owner” or “Haemonetics”), does not oppose Terumo’s Motion to Seal and Request for *In Camera* Review and has consented to the Proposed Modified Protective Order.

II. LEGAL STANDARD

The Board may, for good cause, issue an order to protect a party or person from disclosing confidential information, including, but not limited to, “[s]pecifying terms, including time and place, for the disclosure or discovery.” 37 C.F.R. § 42.54(a)(2). In particular, the Board will protect confidential information after balancing “the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” Patent Trial and Appeal Board Consolidated Trial Practice Guide at 19 (Nov. 2019) (hereinafter “PTAB Practice Guide”).

A party may file a motion to seal where the motion to seal contains a proposed protective order and a certification that the moving party has in good faith conferred or attempted to confer with other affected parties. 37 C.F.R. §42.54(a).

III. GOOD CAUSE EXISTS FOR SEALING TERUMO’S SDD AND FOR REQUESTING *IN CAMERA* REVIEW OF TERUMO’S SDD

Terumo’s narrowly tailored redactions balance “the public’s interest in

maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." PTAB Practice Guide at 19. Most of Terumo's SDD is available for public consumption. The redacted portions of Terumo's SDD reflect highly confidential information protected by the attorney work product doctrine.

The attorney "work-product doctrine shelters the mental processes of the attorney, providing a privileged area within which he can analyze and prepare his client's case." *United States v. Nobles*, 422 U.S. 225, 238–39 (1975). When preparing a petition challenging the validity of a patent, Terumo's attorneys may evaluate their clients' invalidity merits by consulting "databases and repositories in which the asserted prior art was located" and "analytics or publicly accessible resources." Memorandum at 2. Attorneys "assemble information, sift what [they] consider[] to be the relevant from the irrelevant facts, prepare [their] legal theories and plan [their] strategy" through their general prior art search approaches; search terms, filters, queries, or classification pathways employed during prior art searching. *Nobles*, 422 U.S. at 237. Public "[d]isclosure of an attorney's efforts" including the amount of time spent on the search; and the amount of time spent reviewing search results will "disrupt the orderly development and presentation of his case" before the Board. *Id.* at 238–39. Thus, when an exhibit contains the attorney work product described above, good cause exists to seal the exhibit and

limit the tribunal to review such material *in camera*. See *In re EchoStar Commc'ns Corp.*, 448 F.3d 1294, 1304 (Fed. Cir. 2006).

Good cause exists to seal Terumo's SDD because it contains the required information outlined in the Memorandum, information that is "truly confidential" and protected by the attorney work product privilege. See Fed. R. Civ. P. 26(c)(1)(G). Terumo's SDD discloses "in detail the databases and repositories in which the asserted prior art was located; the general search approach, search terms, filters, queries, or classification pathways employed; other analytics or publicly accessible resources consulted; the amount of time spent on the search; and the amount of time spent reviewing search results." Memorandum at 1. To the extent Terumo's SDD discloses the work done by someone other than Terumo's counsel of record, good cause exists to seal that information and restrict it to *in camera* review, too, as the attorney work product "doctrine protect[s] material prepared by agents for the attorney as well as those prepared by the attorney himself." *Nobles*, 422 U.S. at 239. But for restricting Terumo's SDD to the Board's *in camera* review, "much of what is now put down in writing" in Terumo's SDD "would remain unwritten." *Id.* at 237.

Further, Terumo is not relying on its SDD in support of any of its invalidity arguments, so the public's interest in accessing it is minimal. Terumo, has, however, a strong interest in protecting its attorney work product privileged and confidential

information, and, thus, Terumo’s interest in keeping the redacted information under seal outweighs the public’s interest in viewing that information. *Cf. Garmin Int’l, Inc. et al. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 36 at 7-9 (P.T.A.B. Apr. 5, 2013). Therefore, there is good cause to seal the narrowly tailored redactions within Terumo’s SDD and for granting its request for *in camera* review.

IV. PROPOSED PROTECTIVE ORDER

Pursuant to 37 C.F.R. § 42.54, Terumo requests that the proposed modified protective order attached below as Exhibit A be entered.³

Good cause exists to modify the Board’s default protective order to include at least two levels of confidentiality designations and to comply with the requirements in the Memorandum. *See* PTAB Practice Guide at 91. Terumo’s SDD requires filing under Filing Party and Board only to protect information protected under the attorney work product doctrine, and the proposed Modified Protective Order properly indicates that the Office may use the information in Terumo’s SDD for internal training, improving examination processes, and analytics. *See* Memorandum at 2. Further, to the extent Patent Owner relies on confidential information to argue

³ “[A] marked-up comparison of the proposed and default protective orders showing the differences between the two” is attached as Exhibit B. *See* PTAB Practice Guide at 91.

that secondary considerations support finding of non-obviousness, that information would require a separate confidentiality designation.

The parties reserve the right to seek appropriate further modifications to the Proposed Modified Protective Order in the future to the extent necessary.

V. CONCLUSION

For the reasons set forth above, Terumo respectfully requests the Board grant (1) its Motion to Seal Terumo’s SDD, with a redacted version available to the public; (2) Request for *In Camera* Review of Terumo’s SDD and (3) enter the Proposed Modified Protective Order.

Dated: November 25, 2025

Respectfully submitted,
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Counsel for Terumo BCT, Inc

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing PETITIONER'S MOTION TO SEAL, REQUEST FOR IN CAMERA REVIEW, AND FOR ENTRY OF STIPULATED PROTECTIVE ORDER was served on November 25, 2025 by filing this document through the P-TACTS platform as well as by delivering a copy via the delivery method indicated to the attorneys of record for the Patent Owner as follows:

Via Email:

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Dated: November 25, 2025

Respectfully submitted,

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Tel: (202) 429-3000
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Counsel for Terumo BCT, Inc.

EXHIBIT A

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERUMO BCT INC.,

Petitioner

v.

HAEMONETICS CORP.,

Patent Owner

PGR2025-00078

U.S. Patent No. 12,171,916

MODIFIED PROTECTIVE ORDER

Modified 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” or “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY.”

2. Access to confidential information that is designated “PROTECTIVE ORDER MATERIAL” 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. Access to confidential information that is designated “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY” is limited to :

(A) The Filing Party: The Party filing the confidential information with the designation “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY.”

(B) 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.

(i) To the extent that the confidential information designated “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY” is a Search Disclosure Declaration (SDD) as outlined in Director John A. Squires’ November 17, 2025 Memorandum on Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions, the Office may also use the information in an SDD for internal training, improving examination processes, and analytics.

4. Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in Section (2)(A)–(E), shall be extended access to confidential information designated “PROTECTIVE ORDER MATERIAL” 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.

5. 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.

6. 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 confidential as “PROTECTIVE ORDER MATERIAL” 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.

(C) Documents and Information Exchanged Between a Filing Party and Board Only. Documents and other information designated confidential as “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY” in proceedings before the Board shall be clearly marked as such and shall be produced in a manner that maintains their confidentiality.

7. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information designated confidential as “PROTECTIVE ORDER MATERIAL”

must return, or certify the destruction of, all copies of the confidential information to the producing party.

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

PGR2025-00078

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]

EXHIBIT B

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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U.S. Patent No. 12,171,916

MODIFIED PROTECTIVE ORDER

Default-Modified Protective Order

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1.

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- (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. Access to confidential information that is designated “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY” is limited to:

(A) The Filing Party: The Party filing the confidential information with the designation “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY.”

(B) 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.

—
—To the extent that the confidential information designated “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY” is a Search Disclosure Declaration (SDD) as outlined in Director John A. Squires’ November 17, 2025 Memorandum on Voluntary Search Disclosure Declarations as a Favorable Factor in Institution Decisions, the Office may also use the information in an SDD for internal training, improving examination processes, and analytics.

(i)

3.—Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in ~~(d)~~Section (2)(A)–(E), shall be extended access to confidential information designated “PROTECTIVE ORDER MATERIAL” 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.

~~4.~~—Persons receiving confidential information shall use reasonable efforts to maintain the confidentiality of the information, including:

5.

- (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.

(D)

5.6. 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~~ as “PROTECTIVE ORDER MATERIAL” 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.

(B)

(C) Documents and Information Exchanged Between a Filing Party and Board Only. Documents and other information

designated confidential as “PROTECTIVE ORDER MATERIAL – FILING PARTY & BOARD ONLY” in proceedings before the Board shall be clearly marked as such and shall be produced in a manner that maintains their confidentiality.

6.7. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information designated confidential as “PROTECTIVE ORDER MATERIAL” must return, or certify the destruction of, all copies of the confidential information to the producing party.

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

PGR2025-00078[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]

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