

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FIDELITY INFORMATION SERVICES, LLC,  
Petitioner,

v.

MIRROR IMAGING, LLC,  
Patent Owner.

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Case CBM2018-00014 (Patent 6,963,866 B2)  
Case CBM2018-00015 (Patent 9,141,612 B2)  
Case CBM2018-00016 (Patent 7,836,067 B2)  
Case CBM2018-00017 (Patent 7,552,118 B2)<sup>1</sup>

Before KARL D. EASTHOM, JUSTIN T. ARBES, and  
RAMA G. ELLURU, *Administrative Patent Judges*.

EASTHOM, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceedings  
Filing Unredacted Exhibits and Motion to Seal  
*37 C.F.R. §§ 42.5, 42.14*

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<sup>1</sup> This Order will be filed in each case. The parties must seek prior authorization to employ this joint heading and filing style.

CBM2018-00014 (Patent 6,963,866 B2)  
CBM2018-00015 (Patent 9,141,612 B2)  
CBM2018-00016 (Patent 7,836,067 B2)  
CBM2018-00017 (Patent 7,552,118 B2)

On June 12, 2018, the panel held a teleconference with counsel for the parties to discuss certain issues related to filings by the parties, including the prospective filing of unredacted exhibits. Prior to the teleconference, Patent Owner contended in its Preliminary Response (Paper 17) that Petitioner “relies on almost *entirely* redacted customer software agreements that deny the Board and the patent owner the necessary context to confirm their veracity.” Prelim. Resp. 37.<sup>2</sup> Consequently, in an email (June 8, 2018), we directed the parties to discuss the propriety of Petitioner filing unredacted confidential versions of relevant redacted Exhibits (such as Exhibits 1020, 1052, and 1076), as “Parties and Board Only.”

During the teleconference, Petitioner agreed to file unredacted (confidential) versions of the relevant redacted Exhibits as soon as possible, but no later than Thursday, June 14, 2018, after attempting to reach agreement with Patent Owner about redacting minor irrelevant or immaterial items (including personal information about employees, telephone numbers, etc.). Patent Owner asserted it may request briefing to address the unredacted exhibits. Petitioner replied it may need to respond to any additional briefing by Patent Owner. Given the looming statutory deadlines to decide on institution in each case, the parties agreed to initiate any request for further briefing by sending an email to the Board promptly. The parties acknowledged similar briefing and issues in related proceedings involving Patent Owner and the same challenged patents, namely CBM2017-00064,

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<sup>2</sup> References to the record herein generally refer to CBM2018-00017 except as otherwise noted. With the exceptions as noted below (notes 4 and 5), all four cases include similar filings.

CBM2018-00014 (Patent 6,963,866 B2)  
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CBM2017-00065, CBM2017-00066, and CBM2017-00067. The parties also agreed to file relevant motions to seal, jointly or otherwise.<sup>3</sup>

Shifting to other filing issues, Patent Owner agreed to send an email to the Board to remove the “Parties and Board Only” designation of Paper 16 in CBM2018-00016 and Paper 18 in CBM2018-00017 (Motion to Seal).<sup>4</sup> Finally, Petitioner stated with respect to CBM2018-00017, that Paper 9 constitutes the proper Petition of the two petitions filed (i.e., Petitioner filed Paper 8, a petition, minutes before Paper 9, the correct Petition).<sup>5</sup> Paper 8 shall be expunged.

It is so *Ordered*.

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<sup>3</sup> When submitting information designated as confidential by either party, the submitting party should file the information under seal (i.e., as “Parties and Board Only”) and a motion to seal that information. *See* 37 C.F.R. § 42.14. All information filed under seal shall remain provisionally under seal until the Board decides the motion to seal. *Id.* The motion to seal may be filed by either party, or jointly.

<sup>4</sup> Patent Owner explained it inadvertently filed the Motions to Seal its Preliminary Responses in CBM2018-00016 and CBM2018-00017 as “Parties and Board Only.” In each other case, Patent Owner filed its Preliminary Response under that designation, but did not file a corresponding Motion to Seal. If Patent Owner intends the Preliminary Responses in CBM2018-00014 and CBM2018-00015 to remain under seal, Patent Owner shall file a Motion to Seal within five business days; otherwise, the Preliminary Responses will be unsealed.

<sup>5</sup> The two petition anomaly only occurs in CBM2018-00017.

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