

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Arkema France

Petitioner

v.

Honeywell International Inc.

Patent Owner

Trial No.: IPR2015-00916

U.S. Patent No. 8,710,282

PETITIONER'S MOTION TO SEAL

Petitioner Arkema France (“Petitioner”) respectfully moves to seal Petitioner’s unredacted Reply,¹ filed concurrently with this filing, as well as Reply exhibits 1024, 1025, 1032, 1033, 1036, and 1037. Petitioner’s unredacted Reply references exhibits designated by Patent Owner as “Highly Confidential-Protective Order Material” pursuant to the parties’ agreed Protective Order (Exs. 2044 and 2045). Petitioner accordingly moves to seal its unredacted Reply.

The following newly-filed Reply exhibits also contain information that Patent Owner asserts is confidential and seeks to be sealed:

Exhibit 1024: Sealed, unredacted copy of transcript of April 14, 2016 deposition of Dr. Robert D. Lousenberg

Exhibit 1025: Sealed, unredacted copy of transcript of April 15, 2016 deposition of Dr. Robert D. Lousenberg

Exhibit 1032: Sealed Meeting Minutes from PC Meeting held January 11, 2010

Exhibit 1033: Sealed Meeting Minutes from PC Meeting held April 5 and 13, 2010

Exhibit 1036: Sealed comparison of provisional application no. 61/392,242, invention disclosure (Ex. 2029), detailed disclosure (Ex. 2030) and priority application no. 13/195,429 (Ex. 1014)

Exhibit 1037: Sealed, partially unredacted version of Exhibit 2042, Meeting Minutes from PC Meeting held July 12, 2010

In support of this Motion, Petitioner respectfully submits the following:

¹ Petitioner also submits concurrently with this filing an unsealed, redacted Reply.

I. Good Cause Exists to Seal Portions of the Court Reporter Transcript

In determining whether to grant a Motion to Seal, the Board must find “good cause” and “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.” 37 C.F.R. § 42.54(a); 77 Fed. Reg. 48756, 48760 (Aug. 14, 2002). Good cause exists to seal Petitioner’s unredacted Reply along with the above-mentioned Reply exhibits.

Exhibits 1024 and 1025 are unredacted transcripts² of the deposition of Dr. Robert D. Lousenberg that took place on April 14 and 15, 2016, respectively. During the deposition Dr. Lousenberg was questioned regarding the substance of exhibits Patent Owner previously moved to seal (see Paper 22) and marked “Highly Confidential-Protective Order Material” pursuant to the parties’ agreed Protective Order (Exs. 2044 and 2045). While the Board has not yet ruled on Patent Owner’s motion to seal, to the extent that the Board grants Patent Owner’s motion to seal, the Board should also grant Petitioner’s motion to seal portions of the transcript that discuss the substance of those sealed exhibits.

² Petitioner also submits concurrently with this filing Exhibits 1026 and 1027, which are redacted versions of the two day transcript mentioned above. Exhibits 1026 and 1027 are not filed under seal.

Exhibits 1032, 1033, and 1037 are Meeting Minutes from Patent Committee (PC) Meetings held January 11, 2010, April 5 and 13, 2010, and July 12, 2010, respectively. Patent Owner previously filed as Exhibit 2042 a document similar to Exhibit 1037 entitled “Meeting Minutes from PC Meeting held July 12, 2010”, which Patent Owner marked as “Highly Confidential-Protective Order Material” and moved to seal. *See* Paper 22. Exhibits 1032 and 1033 were produced by Patent Owner as additional discovery pursuant to the Board’s Order dated April 1, 2016 (Paper 37). Exhibit 1037 was produced by Patent Owner by agreement between the parties, and is a partially unredacted version of Patent Owner’s Exhibit 2042. Patent Owner marked each of Exhibits 1032, 1033, and 1037 as “Highly Confidential-Protective Order Material” pursuant to the parties’ agreed Protective Order. To the extent that the Board grants Patent Owner’s motion to seal Exhibit 2042, Exhibits 1032, 1033, and 1037 should also be sealed.

Exhibit 1036 is a copy of provisional application no. 61/392,242 with highlighting added to designate whether the content originally appeared in various other documents, namely, the invention disclosure filed by Patent Owner as Exhibit 2029, the detailed disclosure filed by Patent Owner as Exhibit 2030, and priority patent application no. 13/195,429 (Ex. 1014). Patent Owner previously marked Exhibits 2029 and 2030 as “Highly Confidential-Protective Order Material,” and moved to seal Exhibits 2029 and 2030. Exhibit 1036 discusses the

substance of Exhibits 2029 and 2030. Accordingly, to the extent that the Board grants Patent Owner's motion to seal Exhibits 2029 and 2030, Exhibit 1036 should also be sealed.

Petitioner's Reply discusses the substance of Reply Exhibits 1023,³ 1024, 1025, 1032, 1033, 1036, and 1037 as well as the substance of other exhibits Patent Owner has previously moved to seal. To the extent, the Board agrees that Exhibits 1024, 1025, 1032, 1033, 1036, and 1037, as well as the Exhibits Patent Owner moved to seal in Paper 22, the Board should also grant the motion to seal portions of Petitioner's Reply that discuss the substance of those documents. The majority of the Reply remains unredacted, and the exclusion of the redacted information will not affect the public's interest in maintaining a complete and understandable file history.

II. Certification of Non-Publication

Petitioner certifies that the redacted portions of Petitioner's Reply, as well as newly-filed Reply Exhibits 1024, 1025, 1032, 1033, 1036, and 1037 contain information that Patent Owner has asserted to be confidential and has not been publicly disclosed.

³ Exhibits 1023, a Sealed, unredacted copy of court reporter transcript of Board conference call dated April 12, 2016, is subject to a previous motion to seal dated April 21, 2016 (Paper No. 40).

III. Certification of Conference with Counsel for Patent Owner Pursuant to 37 C.F.R. § 42.54

Petitioner certifies that it has conferred with Patent Owner and that Patent Owner does not oppose this motion to seal. Petitioner also certifies that the proposed protective order previously filed by Patent Owner at Exhibits 2044 and 2045 is agreed to by the parties.

IV. Conclusion

For the foregoing reasons, Petitioner respectfully submits that good cause exists to seal the redacted portions of Petitioner's Reply, as well as newly-filed Reply Exhibits 1024, 1025, 1032, 1033, 1036, and 1037.

Dated: May 6, 2016

Respectfully submitted,

/Rickard K. DeMille/

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing PETITIONER'S MOTION
TO SEAL has been served in its entirety this 6th day of May, 2016 by electronic
mail on:

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