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Paper No. 13
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOOGLE LLC,
Petitioner,

v.

PERSONALIZED MEDIA COMMUNICATIONS, LLC,
Patent Owner.

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IPR2020-00723
Patent 7,747,217 B1

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Before GEORGIANNA W. BRADEN, JON M. JURGOVAN, and JOHN F. HORVATH, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

# ORDER

*Denying Petitioner's Motion to Seal and Enter the Default Protective Order*
*37 C.F.R. §§ 42.14, 42.54, and 42.71*

## I. INTRODUCTION

On March 21, 2020, Google LLC ("Petitioner") filed a Petition for *inter partes* review of U.S. Patent No. 7,737,217 B1 ("the '217 patent"). Paper 1 ("Pet."). The Petition, in several places, cites to the infringement contentions (Ex. 1025) that Personalized Media Communications, LLC ("Patent Owner") served on Petitioner alleging infringement of the '217 patent. *See* Pet. 15 n.3, 41 n.10. Petitioner, concurrently with the filing of the Petition, filed a Motion to Seal these infringement contentions and enter the Board's Default Protective Order. Paper 3 ("Mot."). Patent Owner filed a Response to the Motion. Paper 11 ("Resp."). For the reasons discussed below, we *deny* Petitioner's Motion to Seal and to enter the Board's Default Protective Order.

## II. DISCUSSION

The record for an *inter partes* review shall be made available to the public, except as otherwise ordered, and a document filed with a motion to seal shall be provisionally sealed until the motion to seal is decided. 37 C.F.R. § 42.14. Public policy strongly favors making all of the information filed in an *inter partes* review open to the public. *See Garmin Int'l v. Cuozzo Speed Techs., LLC*, IPR2012-00001, Paper 34 at 1–2 (PTAB Mar. 14, 2013). The standard for granting a motion to seal is "good cause," and the party moving to seal a document bears the burden of proving entitlement to the requested relief. 37 C.F.R. §§ 42.20(c), 42.54(a). "Good cause" can be established by showing sufficiently that (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result to a party upon its public disclosure, and (3) the interest in maintaining the confidentiality of the information outweighs the strong public interest in

maintaining an open and understandable record. *See Argentum Pharms. LLC v. Alcon Research Ltd.*, IPR2017-01053, Paper 27 at 3–4 (PTAB Jan. 19, 2018) (informative).

On the record before us, we are not persuaded Petitioner has established good cause to maintain Patent Owner's infringement contentions under seal. First, a motion to seal must be filed by the party who contends the information sought to be sealed is confidential and that it would be harmed should such information be disclosed publicly. Here, Petitioner avers that it does not "concede that any information in Exhibit 1025 is confidential or that good cause exists to seal the exhibit," but nonetheless requests filing the exhibit under seal because "Patent Owner believes good cause exists to seal Exhibit 1025." Mot. 1–2. Thus, Petitioner fails to even allege (let alone demonstrate) that Exhibit 1025 contains confidential information whose public disclosure would harm a party, and that the resulting harm would outweigh the strong public interest in maintaining an open and understandable record of this proceeding.

Accordingly, Petitioner's Motion to Seal Exhibit 1025 is *denied*. Nonetheless, given the representations in the Motion that it is Patent Owner who believes the information contained in Exhibit 1025 is confidential and likely to harm Patent Owner if publicly disclosed, we shall maintain the confidentiality of Exhibit 1025 until the latter of (a) July 20, 2020 or (b) our decision on any motion to seal filed by Patent Owner on or before that date. Should Patent Owner file such a motion to seal, Petitioner will have 1 week to file an opposition to that motion, and no further briefing will be allowed or considered.

ORDER

It is ORDERED that Petitioner's Motion to Seal Exhibit 1025 is *denied;*

FURTHER ORDERED that Patent Owner is authorized to file a motion to seal Exhibit 1025 on or before July 20, 2020;

FURTHER ORDERED that Petitioner is authorized to file an opposition to any motion to seal Exhibit 1025 within 1 week of the filing of such a motion; and

FURTHER ORDERED that Exhibit 1025 will be maintained in confidence until the latter of July 20, 2020 or the Board's decision on any motion to seal Exhibit 1025 filed by Patent Owner on or before July 20, 2020.

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