

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PELOTON INTERACTIVE, INC.,
Petitioner,

v.

IFIT, INC.,
Patent Owner.

IPR2022-00029 (Patent 7,166,062 B1)
IPR2022-00030 (Patent 7,166,062 B1)¹

Before GEORGE R. HOSKINS, JAMES A. WORTH, and
PAUL J. KORNICZKY, *Administrative Patent Judges*.

HOSKINS, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion to Seal
37 C.F.R. §§ 42.14 and 42.54

¹ This Order is being filed in each proceeding listed in the caption. The parties may use this style caption only if the paper includes a statement certifying that the identical paper is being filed in each proceeding listed in the caption.

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On October 13, 2021, in both of these two proceedings, Petitioner filed a petition and several exhibits, and a motion to file Exhibit 1014 (which is the same document in both proceedings) under seal. *See, e.g.*, IPR2022-00029, Paper 4 (“Petitioner’s Motion” or “Mot.”); IPR2022-00030, Paper 4. These two Motions are substantially identical, so we will hereafter cite to Petitioner’s Motion in IPR2022-00029 as representative.

Exhibit 1014 is Patent Owner’s Preliminary Infringement Contentions from co-pending district court litigation concerning the ’062 patent being challenged here. *See* Mot. 1. Petitioner asserts these contentions contain Petitioner’s “highly confidential technical information . . . designated as confidential materials” under a protective order entered by the district court. *Id.* at 1–2. This includes, according to Petitioner, “highly confidential technical information, including technical specifications, internal documents setting forth software and hardware specifications, internal documents and presentations excerpting highly confidential source code, and other documents showing the operation of the Peloton Bike+” which “relate to the core of [Petitioner’s] business.” *Id.* Petitioner asserts that public disclosure of this information would significantly harm Petitioner’s competitive position. *Id.* at 2–3, 5–7.

Petitioner’s Motion was accompanied by a Joint Proposed Protective Order (Appendix A) as well as a red-line of that proposal (Appendix B) identifying the changes Petitioner requests that we make to the Board’s Default Protective Order of the Consolidated Trial Practice Guide (Nov. 2019).² *See* Mot. 3–4. Petitioner’s Motion represents that Patent

² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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Owner does not oppose the Motion, and Patent Owner has agreed to the terms of the Joint Proposed Protective Order. *See id.* at 4.

The standard for granting a motion to seal is “for good cause.”

37 C.F.R. § 42.54(a).

We find that Exhibit 1014 contains highly confidential information belonging to Petitioner. Further, the petitions in these two proceedings cite to Exhibit 1014 for the propositions that: (1) Patent Owner “has construed a ‘*safety mechanism*’ [in claims 38 and 95 of the ’062 patent] to encompass an emergency brake”; (2) Patent Owner “apparently agrees” that signals sent over the Internet are “packetized” as recited in claim 29 of the ’062 patent; and (3) Patent Owner’s preliminary infringement contentions were served on August 6, 2021. IPR2022-00029, Paper 2, at 36, 50, 69, 75–76 (citing Ex. 1014, 24, 30–31); IPR2022-00030, Paper 2, at 36, 71, 75–76. Neither petition is redacted in this regard. Nor are the relevant passages of Exhibit 1014. *See* Ex. 1014, 002–003 (date of service), 028 (“This second signal is packetized because it is sent over the internet. More specifically, the second packetized signal is being sent using a TCP/IP protocol, which by definition, is a packetized protocol.”), 034–035 (“The Bike+ further comprises a safety mechanism in the form of, for example, an emergency brake.”). After reviewing Exhibit 1014, Petitioner’s Motion, and the petitions in these two proceedings, we determine that good cause exists for granting Petitioner’s Motion.

Petitioner has filed two versions of Exhibit 1014: (1) a publicly available, redacted version; and (2) a sealed, unreacted version. *See* Mot. 6, 8. The substantive redactions in the publicly available version of

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Exhibit 1014 (pages 010, 012, 020, 029, 030, 046, 049, 060) are reasonably tailored to be limited to the confidential information at issue.

We further determine that the Protective Order that has been proposed jointly by both parties (Mot. Appx. A) is appropriate within the context of this proceeding.

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner's to Seal Exhibit 1014 is *granted* in both proceedings;

FURTHER ORDERED that the unredacted version of Exhibit 1014 shall remain sealed and designated as "Board and Parties Only" until further notice; and

FURTHER ORDERED that the Joint Proposed Protective Order (Mot. Appx. A) is entered as the protective order governing these two proceedings.

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