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Paper 64
Entered: July 1, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NOVEN PHARMACEUTICALS, INC.
and MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

NOVARTIS AG and LTS LOHMANN THERAPIE-SYSTEME AG,
Patent Owner.

Case IPR2014-00549[1] (Patent 6,316,023 B1)
Case IPR2014-00550[2] (Patent 6,335,031 B1)

Before FRANCISCO C. PRATS, ERICA A. FRANKLIN, and CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges.*

FRANKLIN, *Administrative Patent Judge.*

DECISION
Granting Patent Owner's Motions for Entry of Stipulated Protective Order and to Seal
37 C.F.R. §§ 42.14 and 42.54

[1] Case IPR2015-00265 has been joined with this proceeding.
[2] Case IPR2015-00268 has been joined with this proceeding.

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INTRODUCTION

In each of the proceedings, Patent Owner filed an "Unopposed Motion for Entry of Stipulated Protective Order and to Seal Exhibits 1033–1036[3] and Portions of Petitioner's Reply Petition and Exhibit 1031." Paper 29 ("Motion"). For the reasons stated below, the Motions are granted.

DISCUSSION

Stipulated Protective Order

Patent Owner certifies, pursuant to 37 C.F.R. § 42.54, that the parties have conferred and reached an agreement regarding the scope of the proposed Stipulated Protective Order (Exhibit 2056) which is a slightly amended version of the default protective order set forth in the Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,771 (Aug. 14, 2012). Motion 2. Patent Owner filed a redlined version of the proposed Stipulated Protective Order (Exhibit 2055) identifying how it departs from the Board's default protective order. We have reviewed the proposed Stipulated Protective Order and determine that it is acceptable.

Motion to Seal

Patent Owner must show good cause for the relief requested, including why the information is appropriate to be filed under seal. 37 C.F.R. § 42.54. The Office Patent Trial Practice Guide notes that 37 C.F.R. § 42.54 identifies confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information. 77 Fed. Reg. at 48,760.

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[3] Exhibits 1033–1036, 2055, and 2056 are the same in both IPR2014-00549 and IPR2014-00550.

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In the Motion, Patent Owner describes each of Exhibits 1033–1036 and asserts that these exhibits contain sensitive confidential research and development information, including Patent Owner's proprietary, internal test methods and test data for rivastigmine transdermal formulations. Motion 3–5. According to Patent Owner, these exhibits have not previously been published or made public. *Id*. Additionally, Patent Owner moves to seal portions of Petitioner's Reply and accompanying declaration of Dr. Agis Kydonieus (Exhibit 1031) that contain substantive reference to Exhibits 1033–1036. *Id*. at 5. Petitioner does not oppose the Motion. Consistent with the Motion, Petitioner has filed its Reply (Papers 31, 32) and Exhibit 1031, both under seal and as public versions redacting substantive reference to Exhibits 1033–1036.

Upon considering the content of Exhibits 1033-1036, the portions of Petitioner's Reply and the portions of Dr. Kydonieus' declaration that contain substantive reference to Exhibits 1033–1036, along with Patent Owner's representations as to the confidentiality of the information, we determine that Patent Owner has shown good cause for the relief requested.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner's Unopposed Motions for Entry of Stipulated Protective Order and to Seal are *granted*; and

FURTHER ORDERED that the Stipulated Protective Order is hereby entered in these proceedings and shall govern the treatment and filing of confidential information.

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IPR2015-00549 (Patent 6,316,023 B1)
IPR2015-00550 (Patent 6,335,031 B1)

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