

Filed On Behalf Of:

Novartis AG and LTS Lohmann Therapie-Systeme AG

By:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**NOVEN PHARMACEUTICALS, INC.
AND MYLAN PHARMACEUTICALS INC.,
Petitioners**

v.

**NOVARTIS AG AND LTS LOHMANN THERAPIE-SYSTEME AG,
Patent Owners**

***Inter Partes* Review No.: 2014-00550¹
U.S. Patent No. 6,335,031**

**PATENT OWNERS' UNOPPOSED MOTION TO SEAL PORTIONS OF
PATENT OWNERS' MOTION FOR OBSERVATIONS ON CROSS-
EXAMINATION OF AGIS KYDONIEUS, Ph.D. AND EXHIBIT 1049**

¹ Case IPR2015-00268 has been joined with this proceeding.

Pursuant to the Office Patent Trial Practice Guide (Federal Register, Vol. 77, No. 157, Aug. 14, 2012), 37 C.F.R. § 42.14 and the Stipulated Protective Order (Ex. 2056), Patent Owners, Novartis AG and LTS Lohmann Therapie-Systeme AG, respectfully submit this motion to seal limited portions of the Deposition Transcript of Agis Kydonieus, Ph.D. (Exhibit 1049) and corresponding limited portions of Patent Owners’ Motion for Observations on Cross-Examination of Agis Kydonieus, Ph.D. (“Patent Owners’ Motion for Observations”), which reflect Patent Owners’ confidential information. The redacted portions of Exhibit 1049 and Patent Owners’ Motion for Observations reflect Patent Owners’ confidential information in Exhibits 1033, 1034, 1035, and 1036 that were previously filed under seal.

On April 28, 2015, Patent Owners requested Petitioners’ consent to file this motion to seal portions of Exhibit 1049 and Patent Owners’ Motion for Observations in view of the fact that the proposed redacted portions of these papers reflect Patent Owners’ confidential information. Petitioners do not oppose Patent Owners’ motion.

I. Discussion

The Patent Trial Practice Guide provides that “[t]he rules aim to 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.” 77 FED. REG. 48756, 48760 (Aug. 14, 2012). “The rules identify 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.” *Id.*

Patent Owners previously identified Exhibits 1033, 1034, 1035, and 1036 as containing sensitive confidential research and development information, including Patent Owners’ proprietary, internal test methods and test data for rivastigmine transdermal formulations and explained that such information has not previously been published or made public. (Paper 29 at 3-5.) As summarized below, certain portions of Exhibit 1049 likewise contain Patent Owners’ sensitive confidential information based on Exhibits 1033 and 1035, as well as other Patent Owner documents not publicly available that Patent Owners maintain an interest in protecting:

Portion of Exhibit 1049	Summary of Testimony	Good Cause for Filing Under Seal
183:21-184:6, 184:13-15, 184:19-21, 184:23-24, 185:2, 185:4-5, 185:7-14, 185:19-22, 186:22-25, 187:5-12	Testimony reflecting the contents of Exhibit 1033, an internal Novartis memorandum written by Dr. Tiemessen, previously	The testimony reflects the contents of Exhibit 1033, which contains sensitive business and technical research and development

	filed under seal.	information and has been marked “Confidential” in the concurrent district court litigation and filed as “Protective Order Material” under seal in the above-captioned case.
187:16-22, 191:10-14	Testimony reflecting the contents of Patent Owners’ internal documents.	The testimony reflects the contents of Patent Owners’ internal documents, which contain sensitive research and development information and have been marked “Confidential” in the concurrent district court litigation and are not publicly available.
197:5, 198:6-9, 199:2-8, 199:13-16	Testimony reflecting the contents of Exhibit 1035,	The testimony reflects the contents of Exhibit 1035,

	meeting minutes of the LTS-Sandoz (Novartis) working group.	which contains sensitive business and technical research and development information, including test methods and data, and has been marked “Confidential” in the concurrent district court litigation and filed under seal as “Protective Order Material” in the above-captioned case.
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In addition, Patent Owners move to seal the portions of Patent Owners’ Motion for Observations containing substantive reference to the above testimony. Consistent with this motion, Petitioners have confirmed that they will file a sealed version of Exhibit 1049 as well as a public version redacting the portions of the testimony listed above. Patent Owners likewise will file a sealed version of Patent Owners’ Motion for Observations as well as a public version redacting substantive reference to the above testimony.

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