

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

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

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Case IPR2014-00549<sup>1</sup> (Patent 6,316,023 B1)  
Case IPR2014-00550<sup>2</sup> (Patent 6,335,031 B1)

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

FRANKLIN, *Administrative Patent Judge*.

DECISION

Granting Patent Owner's Motions to Seal Portions of Patent Owner's  
Motion for Observations on Cross-Examination of Agis Kydonieus, Ph.D.  
and Exhibit 1049  
*37 C.F.R. § 42.54*

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<sup>1</sup> Case IPR2015-00265 has been joined with this proceeding.

<sup>2</sup> Case IPR2015-00268 has been joined with this proceeding.

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

## INTRODUCTION

In each of the proceedings, Patent Owner filed an “Unopposed Motion to Seal Portions of Patent Owner’s Motion for Observations on Cross-Examination of Agis Kydonieus, Ph.D. and Exhibit 1049.” Paper 42 (IPR2014-00549) and Paper 41 (IPR2014-00550) (collectively, “Motion”). In the Motion, Patent Owner moves to seal portions of the deposition transcript of Dr. Kydonieus (Exhibit 1049) and corresponding portions of Patent Owner’s Motion for Observations on Cross-Examination of Dr. Kydonieus (Papers 43, 44, “Patent Owner’s Motion for Observations”). For the reasons stated below, the Motions are granted.

## DISCUSSION

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.

In the Motion, Patent Owner asserts that portions of Exhibit 1049 and Patent Owner’s Motion for Observations address Patent Owner’s confidential information contained in Exhibits 1033–1036. Motion 1.<sup>3</sup> Exhibits 1033–1036 contain sensitive confidential research and development information, including Patent Owner’s proprietary, internal test methods and

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<sup>3</sup> Exhibits 1033–1036 and 1049 are the same in both IPR2014-00549 and IPR2014-00550.

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test data for rivastigmine transdermal formulations, and were previously filed under seal. Petitioner does not oppose the Motion.

Upon considering the portions of Exhibit 1049 and Patent Owner's Motion for Observations that Patent Owner proposes to seal, 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 to Seal Portions of Patent Owner's Motion for Observations on Cross-Examination of Agis Kydonieus, Ph.D. and portions of Exhibit 1049 are *granted*.

#### PETITIONER:

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**PATENT OWNER:**

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