

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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INNOPHARMA LICENSING, INC., INNOPHARMA LICENSING LLC,  
INNOPHARMA INC., INNOPHARMA LLC,  
MYLAN PHARMACEUTICALS INC., MYLAN INC., LUPIN LTD. and LUPIN  
PHARMACEUTICALS INC.

Petitioner,

v.

SENJU PHARMACEUTICAL CO., LTD., BAUSCH & LOMB, INC., and  
BAUSCH & LOMB PHARMA HOLDINGS CORP.

Patent Owner.

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Case IPR2015-00902 (Patent 8,669,290 B2)

Case IPR2015-00903 (Patent 8,129,431 B2)<sup>1</sup>

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Filed: March 18, 2016

**PETITIONER'S MOTION TO SEAL**

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<sup>1</sup> A word-for-word identical paper has been filed in each proceeding identified in the heading. IPR2015-01871 has been joined with IPR2015-00903 and includes Petitioners Lupin Ltd. and Lupin Pharmaceuticals Inc. in addition to the parties identified above.

Pursuant to 37 C.F.R. §§ 42.14 and 42.55 and the Protective Order (Paper 36) entered in this proceeding, Petitioner hereby moves to seal the following categories of exhibits:

(1) deposition transcripts designated by Patent Owner as containing confidential information under the Proposed Stipulated Protective Order (Paper 36 in IPR2015-00902; Paper 38 in IPR2015-00903) (“Proposed Stipulated Protective Order”);

(2) documents from a concurrent district court proceeding before the United States District Court for the District of New Jersey in *Senju Pharmaceutical Co., Ltd. et al. v. InnoPharma Licensing, Inc. et al.*, C.A. No. 1:14-cv-06893-JBS-KMW (D.N.J. filed Nov. 3, 2014) and corresponding cases designated by Patent Owner as Confidential pursuant to the Discovery Confidentiality Order (ECF No. 28 para. 11; *see also Senju et al. v. Lupin et al.*, C.A. 14:-cv-00667 (D.N.J.) ECF 34) (“Discovery Confidentiality Order”); and

(3) Petitioners’ Replies, the Declaration of Ivan Hoffmann, and the Declaration of Dr. Paul Laskar filed concurrently herewith in IPR2015-00902 and IPR2015-00902, which contain or refer to information contained in the aforementioned transcripts designated confidential by the Patent Owner, documents designated as Protective Order Material Confidential

under the Proposed Stipulated Protective Order by the Patent Owner, documents designated as Confidential under the Discovery Confidentiality Order by the Patent Owner, or testimony designated as Protective Order Material - Fed. R. Evid. 615 under the Proposed Stipulated Protective Order by the Patent Owner.

The record of an *inter partes* review proceeding, including documents and things, is made available to the public, except as otherwise ordered. 37 C.F.R. § 42.14. Despite the default rule of public availability, the Board will seal confidential information for “good cause,” because it is necessary 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.” 37 C.F.R. § 42.54(a); 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

It is Petitioner’s understanding that information in the following documents has been designated as confidential to Patent Owner, pursuant to the Proposed Stipulated Protective Order:

- Portions of EX1083 (Myers Transcript), 141:9-203:10.
- Portions of EX1082 (Paulson Transcript), 71:13-74:11, 105:13-106:13, 107:4-11, 108:19-109:4, 109:11-16, 113:1-7, 113:16-116:22, 118:7-123:14, 124:11-22, 125:5-6, 125:12-20, 126:2-8, 126:12-22, 127:6-128:3, 128:17-19, 131:5-132:6, 132:9, 132:12-133:21, 134:8-135:1, 137-142:12, 143:21-144:1,

144:7-22, 145:14-146:7, 146:13-15, 146:19-147:9, 147:15-22, 148:12-18, 149:3-7, 149:12-14, 149:17-151:19, 152:15-153:4, 156:10-157:12, 159:7-160:9, 170:19-172:7, 180:9-12, 181:13-19, 182:6-183:9, 183:19-184:19, 187:13-188:15, 191:16-312:10.

- Portions of EX1081 (Trattler Transcript), 111:10-12.
- Portions of EX1079 (Williams Transcript), 121:5-18, 122:7-20, 123:1-125:16, 126:4-127:2.
- Portions of EX1049 (Jarosz Transcript), 8:17-18, 9:5-8, 97:5-98:16, 107:7-111:11.
- Portions of EX1150 (Hofmann Declaration)
- Portions of EX1104 (Laskar Declaration)
- Portions of Petitioner's Reply to Patent Owner's Response
- The entirety of EX1067, EX1117, EX1134, EX1140, and EX1152

Patent Owner has requested that Petitioner file these documents under seal and file an appropriate motion to seal under the Proposed Stipulated Protective Order. (See Appendix A and Appendix B attached hereto). Petitioner has no independent basis for the aforementioned documents to be sealed and thus makes no assertion as to whether or not they contain confidential information. Patent owner does not oppose this motion.

RESPECTFULLY SUBMITTED,

ALSTON & BIRD LLP

Date: March 18, 2015

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