

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

SENJU PHARMACEUTICAL CO., LTD.
Patent Owner.

Case IPR2015-00903 (Patent 8,129,431 B2)¹

PATENT OWNER'S MOTION TO SEAL

¹ IPR2015-01871 has been joined with this proceeding.

TABLE OF CONTENTS

I. Introduction.....1

II. Governing Rules and PTAB Guidance.....1

III. Background and Identification of Confidential Information.....3

IV. Good Cause Exists for Sealing Certain Confidential Information5

 A. Patent Owner’s Confidential Information Contained in the
 Testimony of Mr. Hofmann Should Be Sealed.....5

 B. Under the Rule on Witnesses, Transcript of Petitioner
 InnoPharma’s Experts Should Be Sealed Until Petitioner
 Lupin’s Expert Has Concluded Her Testimony in the Related
 IPR Proceedings7

V. Conclusion9

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

Geders v. United States,
425 U.S. 80 (1976).....7

BOARD DECISIONS

Sandoz, Inc. v. EKR Therapeutics, LLC,
IPR2015-00005, Paper 21 6

FEDERAL STATUTES

35 U.S.C. § 316.....1, 2

FEDERAL REGULATIONS

37 C.F.R. § 42.14 2
 37 C.F.R. § 42.20 3
 37 C.F.R. § 42.54 1, 3
 37 C.F.R. § 42.62 7
 Office Patent Trial Practice Guide,
 77 Fed. Reg. 48756 (Aug. 14, 2012)2

I. Introduction

Through this Motion to Seal, Patent Owner requests that two categories of exhibits be sealed: (1) Patent Owner's confidential information from Patent Owner's New Drug Application ("NDA") (EX2273); (2) the transcript of testimony of Petitioner InnoPharma's experts, Dr. Paul Laskar (EX2272) and Mr. Ivan Hofmann (EX2273). In addition, Patent Owner also requests that the confidential version of Patent Owner's Motion for Observation Regarding Cross-Examination of Reply Witnesses Dr. Paul A. Laskar, Ph.D., and Ivan T. Hofmann, CPA/CFF, CLP ("Observations") (Paper 58 (FED. R. EVID. 615 version to be made public once FED. R. EVID. 615 has been lifted, as explained herein)) citing or substantially describing the second category of documents be sealed. Finally, under 37 C.F.R. § 42.54, Patent Owner renews its request for entry of the Proposed Stipulated Protective Order, Paper 36, filed on December 28, 2015. To the best of Patent Owner's knowledge, the Patent Owner certifies that the information identified as confidential in this motion have not been published or otherwise made public. Petitioner does not oppose this motion.

II. Governing Rules and PTAB Guidance

Under 35 U.S.C. § 316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public but a party may

file a concurrent motion to seal and the information at issue is sealed pending the outcome of the motion.

Similarly, 37 C.F.R. § 42.14 provides:

The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered. A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.

It is, however, only “confidential information” that is protected from disclosure. 35 U.S.C. § 316(a)(7)(“The Director shall prescribe regulations -- . . . providing for protective orders governing the exchange and submission of confidential information”). In that regard, the *Office Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012) provides:

The 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.

* * *

Confidential Information: The rules identify confidential information in a manner consistent with Federal Rule of

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