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., 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.

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

Filed: July 29, 2016

PETITIONER'S MOTION TO SEAL UNDER 37 C.F.R. § 42.54

¹ IPR2015-01871 has been joined with IPR2015-00903.



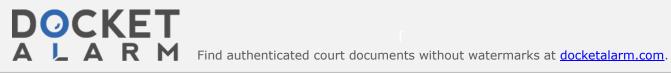
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I. INTRODUCTION

In its June 21, 2016, Decision relating to both Case IPR2015-00902 and Case IPR2015-00903, the Patent Trial and Appeal Board (the "Board") found deficiencies in both the Patent Owner's Motion to Seal and Stipulated Protective Order. Paper 77. Thus, the Board denied both without prejudice. *Id.* at 8. In its Decision, the Board ordered that the Patent Owner may file the default protective order or an amended protective order and revised motion to seal addressing the identified deficiencies on or before July 31, 2016. *Id.* at 8-9. In a related Decision of the same day, in Case IPR2015-00903, the Board denied without prejudice Petitioner's Motion to Seal. Paper 80. In that Decision, the Board ordered that a party may file a revised or new motion to seal on or before July 31, 2016. *Id.* at 4.

Accordingly, pursuant to 37 C.F.R. §§ 42.14 and 42.54 InnoPharma Licensing, Inc., InnoPharma Licensing LLC, InnoPharma Inc., InnoPharma LLC (collectively, "InnoPharma"), Mylan Pharmaceuticals Inc., and Mylan Inc. (collectively, "Mylan") (InnoPharma and Mylan collectively, "Petitioner") respectfully move to seal Exhibit 2109 in its entirely, and portions of Exhibit 2082 and Patent Owner's Response (Paper No. 32), which were submitted by Senju Pharmaceutical Co., Ltd., Bausch & Lomb, Inc., and Bausch & Lomb Pharma Holdings Corp. (collectively, "Patent Owner"). Exhibit 2109 contains InnoPharma's Abbreviated New Drug Application ("ANDA"). Exhibit 2082,



which contains Patent Owner's expert Declaration of Robert O. Williams, III, Ph.D. (the "Williams Declaration"), and Patent Owner's Response cite to or substantially describe the confidential information in Ex. 2109 that Petitioner seeks to seal. Petitioner certifies that the information identified as confidential in this motion has not been published or otherwise made public.

II. GOOD CAUSE EXISTS FOR SEALING CONFIDENTIAL INFORMATION IN EXHIBITS 2109 AND 2082 AND PATENT OWNER'S RESPONSE

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

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.



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