

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.
Petitioners,

v.

SENJU PHARMACEUTICAL CO., LTD.
Patent Owner.

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

**PATENT OWNER'S MOTION TO SEAL AND MOTION TO ENTER
STIPULATED PROTECTIVE ORDER**

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I. Introduction

Through this Motion to Seal and Motion to Enter Stipulated Protective Order, Patent Owner requests that three categories of exhibits be sealed: (1) excerpts of Patent Owner's New Drug Application ("NDA") (Exs. 2096, 2102, 2103, and 2110) and Petitioner InnoPharma Licensing's Abbreviated New Drug Application ("ANDA") (Ex. 2109); (2) two confidential presentations related to Patent Owner's research and development of the patented formulation (Exs. 2220 and 2226); and (3) the transcript of testimony of Petitioner InnoPharma's expert, Dr. Paul Laskar (Ex. 2114). In addition, Patent Owner also requests that portions of the confidential versions of Patent Owner's Response (Paper 34 (BOARD'S EYES ONLY version, containing no redactions) and Paper 33 (FED. R. EVID. 615 version, redacting BOARD'S EYES ONLY material, to be made public once FED. R. EVID. 615 has been lifted, as explained herein)), and portions of confidential versions of Patent Owner's expert declarations (Exs. 2082 (Williams), 2105 (Davies), 2116 (Trattler), and 2130 (Jarosz)) citing or substantially describing the above categories of documents be sealed. Finally, under 37 C.F.R. § 42.54, Patent Owner further requests entry of the Proposed Stipulated Protective Order, submitted concurrently herewith. 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:

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