

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS VI LLC

PETITIONER

V.

CELGENE CORPORATION

PATENT OWNER

Case IPR2015-01096
Patent 6,315,720

PETITIONER'S MOTION TO SEAL

I. Introduction

In accordance with 37 C.F.R. § 42.14, § 42.54, and the scheduling order entered in this case (Paper 22), Petitioner Coalition for Affordable Drugs VI LLC (“Petitioner”) respectfully requests that the Board seal the confidential version of Petitioner’s Reply to Patent Owner’s Response (Paper 52); and Exhibits 1074 and 1075 (deposition transcripts). A Default Protective Order (“Protective Order”) was filed by Patent Owner on February 12, 2016 (Paper 39).

Petitioner submits, concurrently with this motion: (i) Petitioner’s Confidential Reply to Patent Owner’s Response (Paper 52); (ii) Petitioner’s Non-Confidential Reply to Patent Owner’s Response (Paper 51); (iii) confidential versions of Exhibits 1074 and 1075; and (iv) non-confidential versions of Exhibits 1074 and 1075.

II. Good Cause Exists to Seal the Requested Documents

Documents filed in an *inter partes* review (IPR) are generally available to the public. 37 C.F.R. § 42.14. However, the Board may, for good cause, protect confidential information from public disclosure. 37 C.F.R. § 42.54; *see also* *Garmin Int’l v. Cuozzo Speed Tech., LLC*, IPR2012-00001, Paper 36, 3-4 (Apr. 5, 2013). The IPR rules “identify confidential information in a manner consistent with Fed. R. Civ. P. 26(c)(1)(G).” *Office Patent Trial Practice Guide* 77 FED. REG. 48756, 48760 (Aug. 14, 2012) (citing 37 C.F.R. § 42.54). When

determining good cause, the Board must “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.” *Id.*

Petitioner seeks to seal the portions of its Reply (Paper 52), Exhibit 1074 (transcript from the deposition of Dr. Joseph DiPiro), and Exhibit 1075 (transcript from the deposition of Dr. Lourdes M. Frau) that quote, refer to, or discuss information that Patent Owner has previously filed under seal. (*See* Paper 39.) According to Patent Owner’s Motion to Seal, this information reflects “Celgene’s business confidential information and trade secrets;” “is a confidential agreement between Celgene and a third party;” and “has not been previously disclosed to the public and...remains confidential.” (*See id.* at 1.) Petitioner takes no position on the confidentiality of the underlying information, but seeks to file under seal in order to fulfill its duties under the Protective Order.

III. Certification of Good Faith

In accordance with 37 C.F.R. § 42.54, Petitioner’s counsel certifies that it has, in good faith, conferred with Patent Owner’s counsel, and Patent Owner does not object to this Motion.

IV. Conclusion

For the foregoing reasons, Petitioner respectfully requests that the Board

grant the Petitioner's Motion to Seal.

Respectfully submitted,

May 27, 2016

/Parvathi Kota/

Sarah E. Spires (Reg. No. 61,501)

SKIERMONT DERBY LLP

2200 Ross Ave., Ste. 4800W

Dallas, Texas 75201

P: 214-978-6600/F: 214-978-6601

Lead Counsel for Petitioner

Dr. Parvathi Kota (Reg. No. 65,122)

Paul J. Skiermont (*pro hac vice*)

Sadaf R. Abdullah (*pro hac vice*)

SKIERMONT DERBY LLP

2200 Ross Ave., Ste. 4800W

Dallas, Texas 75201

P: 214-978-6600/F: 214-978-6621

Back-Up Counsel for Petitioner

Certificate of Service

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on May 27, 2016, a true and correct copy of the foregoing Petitioner's Motion to Seal and for Entry of Protective Order, was served by filing this document through the Patent Review Processing System, as well as by electronic means at the following addresses of record:

Francis Cerrito
nickcerrito@quinnemanuel.com

Eric C. Stops
ericstops@quinnemanuel.com

Frank C. Calvosa
frankcalvosa@quinnemanuel.com

Anthony Insogna
aminsogna@jonesday.com

J. Patrick Elsevier
jpelsevier@jonesday.com

Gasper J. LaRosa
gjarosa@jonesday.com

Respectfully submitted,

Dated: May 27, 2016

/Parvathi Kota/
Dr. Parvathi Kota (Reg. No. 65,122)

Counsel for Petitioner