

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUPIN LTD. and LUPIN PHARMACEUTICALS INC.,
Petitioner

v.

SENJU PHARMACEUTICAL CO., LTD.,
Patent Owner

Case IPR2015-01099 (Patent 8,669,290 B2)

RENEWED MOTION TO SEAL

TABLE OF CONTENTS

I.	Introduction.....	1		
II.	Procedural History	1		
III.	Governing Rules and PTAB Guidance.....	4		
IV.	Identification of Confidential Information	6		
V.	Good Cause Exists for Sealing Certain Confidential Information	7		
	A.	Patent Owner’s NDA and Related Portions of Patent Owner’s Response, and the Williams, Trattler, Myers and Jarosz Declarations Should Be Sealed	7	
		1.	The NDA Contains Patent Owner’s Highly Sensitive, Confidential Information	8
		2.	Good Cause Exists to Seal the NDA Exhibits as “CONFIDENTIAL” Under the Default Protective Order	9
	B.	Confidential Information in Testimony of Patent Owner’s Officer, the Related Portions of the Jarosz Declaration, and the Jarosz Reply Expert Report in the District Court Case Should Be Sealed.....	10	
	C.	Third Party BioScience’s Confidential Testing Reports and Materials Documenting Proprietary Testing Methods and the Related Paulson Declaration Should Be Sealed.....	11	
VI.	Conclusion	12		

TABLE OF AUTHORITIES

Page(s)

BOARD DECISIONS

Sandoz, Inc. v. EKR Therapeutics, LLC,
IPR2015-00005, Paper 21 9

FEDERAL STATUTES

35 U.S.C. § 3164, 5

FEDERAL REGULATIONS

37 C.F.R. § 42.14 5, 8, 10, 11
37 C.F.R. § 42.20 5
37 C.F.R. § 42.54 5
Office Patent Trial Practice Guide,
77 Fed. Reg. 48756 (Aug. 14, 2012)5, 9, 10, 12

..

I. Introduction

Through this Renewed Motion to Seal, Patent Owner requests that three categories of exhibits be sealed: (1) excerpts of Patent Owner's New Drug Application ("NDA") (Exs. 2096, 2102, 2103, 2110, 2251, 2291-2293); (2) information related to the commercial success of Patent Owner's product from a related district court case (Ex. 2258, 2323); and (3) confidential testing reports and materials documenting the proprietary testing methods of a third-party test company (Exs. 2267-2278, 2294). Patent Owner also requests that portions of its Patent Owner's Response (Paper 22) and expert declarations (Exs. 2126 (Myers), 2128 (Paulson), 2082 (Williams), 2116 (Trattler), and 2130 (Jarosz)) citing or substantially describing the above categories of documents be sealed. To the best of Patent Owner's knowledge, the Patent Owner certifies that the information identified as confidential in this motion has not been published or otherwise made public. Petitioner Lupin does not oppose this motion.

II. Procedural History

Patent Owner has filed multiple Motions to Seal. On February 25, 2016, Patent Owner filed Motion to Seal and Motion to Enter Stipulated Protective Order (Paper 25), requesting that certain exhibits and pleadings be sealed, specifically: Exs. 2096, 2102, 2103, 2110, 2251, 2291-2293 (related to Patent Owner's NDA; Exs. 2220, 2226, and 2296 (Patent Owner's presentations); Ex. 2258 (testimony on

market share of Patent Owner's product); Exs. 2267-2278, 2286, 2294 (testing reports and materials from third-party test companies); Exs. 2114, 2316 (transcripts of testimony of experts in the co-pending IPRs); portions of Patent Owner's Response (Paper 22); and Exs. 2082, 2105, 2116, 2126, 2128, 2130 (declarations of various experts citing or substantially describing the categories of documents sought to be sealed). Also on February 25, 2016, Patent Owner filed a Joint Motion to Seal (Paper 26) requesting that Patent Owner's Response (Paper 22) and Exhibit 2082 (Declaration of Dr. Robert O. Williams) citing Petitioner Lupin's Abbreviated New Drug Application ("ANDA") (Ex. 2109) be filed under seal. On May 5, 2016, Patent Owner filed a Motion to Seal (Paper 41) requesting that the Reply Expert Report of John C. Jarosz (Ex. 2323), from the related *Senju Pharmaceutical, et al. v. Lupin Ltd. et al.*, No. 14-cv-00667, be filed under seal.

On June 21, 2016, the Board denied the parties request to enter the Stipulated Protective Order (Paper 61) and denied all pending requests to seal exhibits and pleadings without prejudice (Papers 57, 58, 61). The parties met and conferred and agreed that in light of the Board's orders and the completion of discovery, the "PROTECTIVE ORDER MATERIAL-BOARD'S EYES ONLY" and "PROTECTIVE ORDER MATERIAL-FED R. EVID 615" designations are no longer applicable to this proceeding. As a result, the parties agreed that the Default Protective Order should govern in this case. Accordingly, in this Motion,

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.