

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

Before FRANCISCO C. PRATS, ERICA A. FRANKLIN, and
GRACE KARAFFA OBERMANN, *Administrative Patent Judge*.

FRANKLIN, *Administrative Patent Judge*.

DECISION

Granting Petitioner's Motion to Expunge

37 C.F.R. § 42.56

On October 17, 2016, Petitioner filed a motion to expunge the sealed versions of Exhibit 2109 (an Abbreviated New Drug Application by Lupin) and Exhibit 2082 (declaration of Robert O. Williams, III., Ph.D.). Paper 75. Petitioner states that “Patent Owner does not oppose this motion.” *Id.* at 1.

The Rules of Practice for Trial before the Patent Trial and Appeal Board provide that:

Confidential information that is subject to a protective order ordinarily will become public 45 days after denial of a petition to institute a trial or 45 days after final judgment in a trial. There is an expectation that information will be made public where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public.

77 Fed. Reg. No. 157, Part V at Section I.E.6. (Aug. 14, 2012); *see also* 37 C.F.R. § 42.56 (“After denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record.”).

The Board’s Default Protective Order has been entered in this proceeding. Paper 70. Additionally, we granted Petitioner’s Motion to Seal Exhibits 2109 and 2082. *Id.* On September 12, 2016, a Final Written Decision was entered by the Board. Paper 69. Accordingly, in this proceeding, all documents filed subject to a protective order would normally be made public 45 days from that date.

Petitioner affirms that Exhibit 2109 is not cited or discussed in the Board’s Final Decision. *Id.* at 4–5. Regarding Exhibit 2082, Petitioner affirms that the Final Decision does not cite or rely on the portions of the

exhibit containing Petitioner's confidential information, i.e., paragraphs 201 and 234. *Id.* at 5. On October 17, 2016, Petitioner filed a redacted copy of Exhibit 2082 that will remain in the record if the sealed version of the exhibit is expunged. *Id.* Thus, Petitioner asserts that expunging the sealed exhibits will not impede public understanding of the underlying arguments and evidence relied upon by the Board in the Final Decision. *Id.*

Based upon our consideration of those facts, and the arguments presented in Petitioner's unopposed motion, Petitioner's request to expunge the sealed confidential information is *granted*.

Accordingly, it is

ORDERED that Petitioner's Motion to Expunge is *granted*;

FURTHER ORDERED that Exhibit 2109 shall be expunged from the record; and

FURTHER ORDERED that all versions of Exhibit 2082, *except for the redacted Exhibit 2082 filed on October 17, 2016*, shall be expunged from the record.¹

¹ There are currently multiple versions of Exhibit 2082 on file, including multiple revised versions.

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