

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUPIN LTD. and LUPIN PHARMACEUTICALS INC., INNOPHARMA
LICENSING, INC., INNOPHARMA LICENSING LLC, INNOPHARMA
INC., INNOPHARMA LLC, MYLAN PHARMACEUTICALS INC., and
MYLAN INC.,
Petitioner

v.

SENJU PHARMACEUTICAL CO., LTD.,
Patent Owner

Case IPR2015-01100 (Patent 8,927,606 B1)¹

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

¹ Case IPR 2016-00091 has been joined with this proceeding.

TABLE OF CONTENTS

I. Introduction.....1

II. Governing Rules and PTAB Guidance.....2

III. Background and Identification of Confidential Information.....4

IV. Good Cause Exists for Sealing Certain Confidential Information.....7

 A. Patent Owner’s New Drug Application (“NDA”) and Related Portions of Patent Owner’s Response, and the Myers, Williams, Trattler, and Jarosz Declarations Should Be Sealed7

 1. The NDA and ANDA Contain Highly Sensitive, Confidential Information to Their Respective Owners8

 2. Good Cause Exists to Seal the NDA Exhibits as “BOARD’S EYES ONLY” Under the Proposed Stipulated Protective Order.....9

 B. Patent Owner’s Confidential Presentations Related to its Research and Development, Testimony of Patent Owner’s Officer, and Related Jarosz Declaration Should Be Sealed.....10

 C. Third Party’s Confidential Testing Reports and Materials Documenting Proprietary Testing Methods and Related Paulson Declarations Should Be Sealed11

 D. Under the Rule on Witnesses, the Transcript of Petitioner Lupin’s Expert Should Be Sealed Until Petitioner InnoPharma’s Expert Has Concluded His Testimony in the Related IPR Proceedings12

V. Proposed Stipulated Protective Order14

VI. Conclusion15

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

Geders v. United States,
425 U.S. 80 (1976).....13

BOARD DECISIONS

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

FEDERAL STATUTES

35 U.S.C. § 316.....2

FEDERAL REGULATIONS

37 C.F.R. § 42.14 2, 8, 10, 11
37 C.F.R. § 42.20 3
37 C.F.R. § 42.54 2, 3
37 C.F.R. § 42.62 12
Office Patent Trial Practice Guide,
77 Fed. Reg. 48756 (Aug. 14, 2012)3, 9, 10, 11

I. Introduction

Through this Motion to Seal and Motion to Enter Stipulated Protective Order, Patent Owner requests that four categories of exhibits be sealed: (1) excerpts of Patent Owner's New Drug Application ("NDA") (Exs. 2096, 2102, 2103, 2110, 2251, 2291-2293); (2) three confidential presentations related to Patent Owner's research and development of the patented formulation (Exs. 2220, 2226, and 2296) and testimony related to the market share of Patent Owner's product in a related district court case (Ex. 2258); (3) confidential testing reports and materials documenting the proprietary testing methods of third-party test companies (Exs. 2267-2278, 2286, 2294); and (4) the transcript of testimony of InnoPharma Licensing's expert, Dr. Paul Laskar in the related IPR2015-00902 and -00903 (Ex. 2114) and the transcript of testimony of Lupin's expert, Dr. Jayne Lawrence (Ex. 2316). In addition, Patent Owner also requests that portions of the confidential versions of its Patent Owner's Response (Paper 23 (BOARD'S EYES ONLY version, containing no redactions) and Paper 24 (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. 2126 (Myers), 2128 (Paulson), 2082 (Williams), 2105 (Davies), 2116 (Trattler), and 2130 (Jarosz)) citing or substantially describing the above categories of documents be sealed. Finally,

IPR2015-01100 (Patent 8,927,606 B1)

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 has not been published or otherwise made public. Petitioner Lupin 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

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.