

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUPIN LTD. and LUPIN PHARMACEUTICALS INC.
Petitioners

v.

SENJU PHARMACEUTICAL CO., LTD., BAUSCH & LOMB, INC., and
BAUSCH & LOMB PHARMA HOLDINGS CORP.
Patent Owner

IPR2015-01097 (US Patent No. 8,751,131)
IPR2015-01099 (US Patent No. 8,669,290)
IPR2015-01100 (US Patent No. 8,927,606)
IPR2015-01105 (US Patent No. 8,871,813)¹

PETITIONERS' MOTION TO SEAL

¹ The word-for-word identical paper is filed in each proceeding identified in the heading. IPR2016-00089 has been joined with IPR2015-01097; IPR2016-00091 has been joined with IPR2015-01100; and IPR2016-00090 has been joined with IPR2015-01105. Each of these joined proceedings includes Petitioners InnoPharma Licensing, Inc., InnoPharma Licensing LLC, InnoPharma Inc., Mylan Pharmaceuticals Inc., and Mylan Inc. (collectively, "InnoPharma") in addition to the parties identified above.

Pursuant to 37 C.F.R. §§ 42.14 and 42.55 and the Protective Orders entered in these proceedings, Petitioners hereby move to seal the following categories of exhibits:

- (1) deposition transcripts designated by Patent Owner as containing confidential information under the Proposed Stipulated Protective Orders (Paper 29 in IPR2015-01097; Paper 25 in IPR2015-01099; Paper 29 in IPR2015-01100; and Paper 29 in IPR2015-01105) (“Proposed Stipulated Protective Orders”);
- (2) documents from a concurrent district court proceeding before the United States District Court for the District of New Jersey in *Senju et al. v. Lupin et al.*, C.A. 14:-cv-00667 (D.N.J.) (ECF No. 34) and corresponding cases designated by Patent Owner as Confidential pursuant to the Discovery Confidentiality Order (*see also Senju et al. v. InnoPharma et al.*, C.A. No. 1:14-cv-06893-JBS-KMW; ECF No. 28) (“Discovery Confidentiality Order”); and
- (3) Petitioners’ Replies, the Declaration of Ivan Hoffmann, and the Declaration of Dr. Jayne Lawrence filed concurrently herewith in IPR2015-01097; IPR2015-01099; IPR2015-01100; and IPR2015-01105, which contain or refer to information contained in the aforementioned transcripts designated confidential by the Patent Owner, documents designated as Protective Order Material Confidential under the Proposed Stipulated Protective Order by the

Patent Owner, documents designated as Confidential under the Discovery Confidentiality Order by the Patent Owner, or testimony designated as Protective Order Material - Fed. R. Evid. 615 under the Proposed Stipulated Protective Order by the Patent Owner.

The record of an *inter partes* review proceeding, including documents and things, is made available to the public, except as otherwise ordered. 37 C.F.R. § 42.14. Despite the default rule of public availability, the Board will seal confidential information for “good cause,” because it is necessary to “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.” 37 C.F.R. § 42.54(a); 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

It is Petitioners’ understanding that information in the following documents has been designated as confidential to Patent Owner, pursuant to the Proposed Stipulated Protective Order:

- Portions of EX1125 (Myers Transcript), 141:9-203:10.
- Portions of EX1123 (Paulson Transcript), 71:13-74:11, 105:13-106:13, 107:4-11, 108:19-109:4, 109:11-16, 113:1-7, 113:16-116:22, 118:7-123:14, 124:11-22, 125:5-6, 125:12-20, 126:2-8, 126:12-22, 127:6-128:3, 128:17-19, 131:5-132:6, 132:9, 132:12-133:21, 134:8-135:1, 137-142:12, 143:21-144:1, 144:7-22, 145:14-146:7, 146:13-15, 146:19-147:9, 147:15-22, 148:12-18,

149:3-7, 149:12-14, 149:17-151:19, 152:15-153:4, 156:10-157:12, 159:7-160:9, 170:19-172:7, 180:9-12, 181:13-19, 182:6-183:9, 183:19-184:19, 187:13-188:15, 191:16-312:10.

- Portions of EX1120 (Trattler Transcript), 111:10-12.
- Portions of EX1099 (Williams Transcript), 121:5-18, 122:7-20, 123:1-125:16, 126:4-127:2.
- Portions of EX1121 (Jarosz Transcript), 8:17-18, 9:5-8, 97:5-98:16, 107:7-111:11.
- Portions of EX1122 (Hofmann Declaration)
- Portions of EX1094 (Lawrence Declaration)
- Portions of Petitioner's Reply to Patent Owner's Response
- The entirety of EX1104, EX1133, EX1149, EX1154, and EX1158

Patent Owner has requested that Petitioners file these documents under seal and file an appropriate motion to seal under the Proposed Stipulated Protective Order. (*See Appendix A attached hereto*). Petitioners have no independent basis for the aforementioned documents to be sealed and thus make no assertion as to whether or not they contain confidential information. Patent owner does not oppose this motion.

Respectfully submitted,

April 22, 2016

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