

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COALITION FOR AFFORDABLE DRUGS VII LLC  
Petitioner

v.

POZEN INC.  
Patent Owner

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Case No. IPR2015-01241  
Patent No. 6,926,907

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**PATENT OWNER'S MOTION TO FILE UNDER SEAL**  
*37 C.F.R. § 42.14*

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.12, Horizon Pharmaceuticals, Inc. and Pozen Inc. (hereinafter, “Patent Owner”) hereby submits this Motion to Seal Exhibit 2011 to Patent Owner’s Preliminary Response filed concurrently herewith.

**I. Good Cause Exists for Sealing Certain Confidential Information**

The Office Patent Trial Practice Guide provides that “the rules aim 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.” 77 FED. REG. 48756, 48760 (Aug. 14, 2012). These rules “identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.” *Id.* (citing 37 C.F.R. § 42.54).

Patent Owner requests to file two documents under seal. Exhibit 2011 is a confidential communication from the FDA to Patent Owner regarding the development of Patent Owner’s proprietary Vimovo product. Exhibit 2011 is cited in Patent Owner’s Preliminary Response. A non-redacted version of Patent Owner’s Preliminary Response has been filed under seal and a redacted version of Patent Owner’s Preliminary Response has been publicly filed. To preserve its confidentiality, Patent Owner moves to maintain Exhibit 2011 and the non-redacted version of Patent Owner’s Preliminary Response as filed under seal.

## **II. Certification of Non-Publication**

On behalf of Patent Owner, undersigned counsel certifies that, to the best of their knowledge, the information sought to be sealed by this Motion to Seal has not been published or otherwise made public. Efforts to maintain the confidentiality of this information have been undertaken by Patent Owner in a related district court proceeding. Exhibit 2011 has been produced in co-pending patent infringement litigation in the United States District Court for the District of New Jersey<sup>1</sup> directed to, inter alia, U.S. Patent No. 6,926,907 (“the ’907 patent”) under the parties’ agreed upon protective order, and designated confidential in those cases.

## **III. Certification of Conference with Opposing Party Pursuant to 37 C.F.R. § 42.54**

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<sup>1</sup> *Horizon Pharma, Inc. and Pozen Inc. v. Dr. Reddy’s Laboratories, Inc. & Dr. Reddy’s Laboratories, Ltd.*, 3:11-cv-02317-MLC-DEA (D.N.J.); *Horizon Pharma, Inc. and Pozen Inc. v. Dr. Reddy’s Laboratories, Inc. & Dr. Reddy’s Laboratories, Ltd.*, 3:13-cv-00091-MLC-DEA (D.N.J.); *Horizon Pharma, Inc. and Pozen Inc. v. Lupin Ltd. & Lupin Pharmaceuticals, Inc.*, 3:11-cv-04275-MLC-DEA (D.N.J.); *Horizon Pharma, Inc. and Pozen Inc. v. Mylan Pharmaceuticals, Inc.*, 3:13-cv-04022 (D.N.J.); and *Horizon Pharma, Inc., AstraZeneca AB, AstraZeneca LP and Pozen Inc. v. Actavis Labs., FL, et. al.*, 3:13-cv-03038-MLC-DEA (D.N.J.) (collectively, “the ’907 litigation”).

Patent Owner has conferred with Petitioner and both parties consent to the proposed protective order filed attached as Appendix A.

#### **IV. Proposed Protective Order**

Patent Owner submits a copy of the stipulated protective order attached as Appendix A, to which both parties have agreed. It is a revised version of the Default Protective Order in the Office Patent Trial Practice Guide, 77 FED. REG. 48756, 48771 (Aug. 14, 2012), and a red-line reflecting the revisions is also attached as Appendix B. Almost all of the provisions remain unchanged (including access by the PTO staff). The single revision made to Paragraph 2(A) allows both parties and real parties-in-interest to access confidential information.

#### **V. Conclusion**

For the reasons stated above, Patent Owner respectfully requests that Exhibit 2011, as well as the non-redacted version of Patent Owner's Preliminary Response, remain under seal.

Date: September 18, 2015

Respectfully submitted,

/s/ Ricardo Rodriguez

Ricardo Rodriguez

Reg. No. 40,789

Counsel for Patent Owner

**CERTIFICATION OF SERVICE UNDER 37 C.F.R. §§ 42.6(e)**

I, Ricardo Rodriguez, hereby certify that on this 18th day of September 2015, the foregoing Patent Owner's Motion to File Under Seal Under 37 C.F.R. § 42.14 was served electronically via email on the following:

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Date: September 18, 2015

BY: /s/ Ricardo Rodriguez

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Counsel for Patent Owner

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