

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COALITION FOR AFFORDABLE DRUGS VIII, LLC

Petitioner

v.

THE TRUSTEES OF THE UNIVERSITY OF PENNSYLVANIA

Patent Owner

Case No. IPR2015-01836

Patent No. 7,932,268

PATENT OWNER'S MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14, 42.54, Patent Owner The Trustees of the University of Pennsylvania (“Patent Owner”) respectfully moves to seal portions of Exhibits 2057, 2081, and 2082, filed herewith, which contain confidential business information of Patent Owner and/or confidential patient information. In support of this Motion, Patent Owner is also submitting an unopposed motion for entry of the Board’s default protective order. *See* 37 C.F.R. § 42.54(a).

I. GOOD CAUSE EXISTS FOR SEALING CERTAIN CONFIDENTIAL INFORMATION

In determining whether to grant a Motion to Seal, the Board must find “good cause” and “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). As described in the *Office Trial Practice Guide*, the Board identifies 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.” 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

Exhibit 2082 contains confidential patient information. This exhibit references specific clinical data for patients in connection with studies conducted by or through the University of Pennsylvania. Patent Owner is obligated to maintain the foregoing data as confidential. The public’s interest in accessing this

information for the purposes of the patentability of the challenged claims in this proceeding is outweighed by the prejudicial effect that such disclosure would have on Patent Owner, who is required to maintain the privacy of patients treated by or through the University of Pennsylvania.

Exhibits 2057 and 2081 contain confidential business information of Patent Owner (and of Aegerion, Inc., the exclusive licensee of the patent under review in this proceeding) relating to certain clinical trials conducted on lomitapide by Patent Owner or by Bristol-Myers Squibb Company (“BMS”). Exhibit 2057 contains detailed information regarding the methodology of and summary results from a clinical study conducted by BMS on lomitapide that is non-public and proprietary to Patent Owner. Exhibit 2081 contains business confidential information largely about projects unrelated to the subject matter claimed in the patent at issue in this IPR, that is also proprietary to Patent Owner. Patent Owner has an interest in keeping this business information confidential because it is sensitive, competitive business information. Again, the public’s interest in accessing this information for the purposes of the patentability of the challenged claims in this proceeding is outweighed by the Patent Owner’s interest in maintaining confidential, proprietary business information.

Further, in conjunction with this motion, Patent Owner is submitting non-confidential, redacted versions of Exhibits 2057 and 2081-2082. The proprietary

data and information contained in Exhibits 2057 and 2081-2082 is not essential to an understanding of the accompanying Patent Owner Response and related exhibits. Indeed, the only information not reflected in the redacted versions of these exhibits is the data described above, to wit, the precise clinical patient data or confidential business information proprietary to the Patent Owner or BMS. And as noted above, in the case of Exhibit 2081, the redacted information is largely irrelevant to the present proceedings. In contrast, the public disclosure of this information requires the Patent Owner to disclose proprietary, confidential information. Accordingly, good cause exists to seal the confidential patient data and business confidential information contained in Exhibits 2057 and 2081-2082.

Finally, to the extent the Board chooses to unseal these documents (*e.g.*, it substantively relies on them in its final written decision), Patent Owner requests the opportunity to redact those portions of these exhibits on which the Board does not rely.

For the foregoing reasons, the Board should seal the unredacted versions of Exhibits 2057 and 2081-2082.

II. CERTIFICATION OF NON-PUBLICATION

To the undersigned counsel's knowledge, the information sought to be sealed by this motion has not been published or otherwise made public.

**III. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY
PURSUANT TO 37 C.F.R. § 42.54.**

Patent Owner has conferred with Petitioner, and Petitioner takes no position on this motion until it has had an opportunity to review it.

THEREFORE, Patent Owner respectfully requests that the Board grant Patent Owner's Motion to Seal.

Respectfully submitted,

/William G. James/
William G. James
Registration No. 55,931
GOODWIN PROCTER LLP
901 New York Ave. NW
Washington, DC 20001
Tel: 202.346-4000
Fax: 202-346-4444

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