

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 V LLC;  
HAYMAN CREDES MASTER FUND, L.P.;  
HAYMAN ORANGE FUND SPC – PORTFOLIO A;  
HAYMAN CAPITAL MASTER FUND, L.P.;  
HAYMAN CAPITAL MANAGEMENT, L.P.;  
HAYMAN OFFSHORE MANAGEMENT, INC.;  
HAYMAN INVESTMENTS, LLC;  
NXN PARTNERS, LLC;  
IP NAVIGATION GROUP, LLC;  
J KYLE BASS; and ERICH SPANGENBERG,  
Petitioner,

v.

BIOGEN MA INC.,  
Patent Owner.

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Case: IPR2015-01993  
U.S. Patent No. 8,399,514

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**BIOGEN'S MOTION TO SEAL EXHIBITS 2016A AND 2017A**

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## I. Introduction and Statement of Relief Requested

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner Biogen MA Inc. (“Biogen”) moves to seal Biogen **Exhibits 2016A** and **2017A**, filed concurrently herewith, and for entry of the Board’s default protective order, also filed herewith as **Exhibit 2093**. **Exhibit 2016A** is an unredacted copy of the September 25, 2003 license agreement entered into between Fumapharm AG and Biogen, Inc. for the purpose of developing a DMF-only product to treat multiple sclerosis and psoriasis. (**Ex. 2016A**, “License Agreement.”) **Exhibit 2017A** is an unredacted copy of the May 26, 2006 stock purchase agreement through which Biogen Idec MA Inc. purchased 100% of the total share capital of Fumapharm AG. (**Ex. 2017A**, “Stock Purchase Agreement.”) To maintain a complete and understandable public record of this proceeding, redacted versions of **Exhibits 2016A** and **2017A** are also being filed concurrently herewith as **Exhibits 2016** and **2017**, respectively.

Because the relevant portions of these documents cited in Biogen’s Opposition to the Petition are being made of public record, and the portions redacted in **Exhibits 2016** and **2017** contain confidential information not cited or otherwise relied on by Biogen, the public’s interest in accessing the entirety of **Exhibits 2016A** and **2017A** is minimal, if any. Further, Biogen certifies that it has conferred in good faith with Petitioner’s counsel and that the parties agree on the scope of the proposed Protective Order (**Ex. 2093**), which is the Board’s default

protective order. Indeed, Petitioner's counsel has already signed the Standard Acknowledgment for Access to Protective Order Material. (**Ex. 2084; Ex. 2094.**) Finally, Biogen also certifies that the confidential information redacted from **Exhibits 2016** and **2017** has not previously been made publicly available. For these reasons, further developed below, good cause exists to seal **Exhibits 2016A** and **2017A** and to enter the default protective order in this proceeding.

## **II. Standard for Granting a Motion to Seal**

A motion to seal may be granted for good cause. 37 C.F.R. § 42.54. In determining whether good cause exists, the Board must “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.” *Garmin Int’l, Inc. v. Cuozzo Speed Techs. LLC*, IPR2012-00001, Paper 34, at 2 (PTAB Mar. 14, 2013) (quoting *Office Patent Trial Practice Guide*, 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012)). Only confidential information may be sealed, and the Board may require the movant to certify that no information sought to be sealed is publicly available. *Id.* at 2, 5. A motion to seal must include a proposed protective order and certify that the moving party has conferred in good faith with the opposing party regarding the scope of the proposed protective order. *Id.* at 3 (citing 37 C.F.R. § 42.54). As explained below, good cause exists here to seal **Exhibits 2016A** and **2017A**.

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