

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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STEADYMED LTD.,  
Petitioner,

v.

UNITED THERAPEUTICS CORPORATION,  
Patent Owner.

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Case IPR2016-00006  
Patent 8,497,393 B2

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Before LORA M. GREEN, JONI Y. CHANG, and  
JACQUELINE T. HARLOW, *Administrative Patent Judges*.

HARLOW, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
*37 C.F.R. § 42.5*

The Patent Owner's Unredacted Preliminary Response (Paper 10), as well as Exhibits 2003, 2004, 2005, and 2006, were filed under seal. Patent Owner concurrently submitted a Motion to File under Seal. Paper 7. In that Motion, Patent Owner avers that the parties have agreed to the Default Protective Order in the Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48771 (Aug. 14, 2012). *Id.* Because we declined to rule on Patent Owner's Motion to File under Seal when we issued our Decision to Institute (Paper 12), that Decision was likewise sealed, pending submission by the parties of agreed redactions to the Decision. Patent Owner's Motion to File under Seal remains pending, and the above identified documents remain provisionally sealed.

In correspondence of April 13, 2016, Petitioner states that the parties jointly seek entry of the Default Protective Order. In addition, Petitioner notes that PRPS access to Exhibits 2003, 2004, 2005, and 2006 is presently restricted to Patent Owner and the Board, and requests that the PRPS confidentiality access settings be updated to grant Petitioner access to those documents. Petitioner also seeks authorization to supply the Decision to Institute (Paper 12), the Unredacted Preliminary Response (Paper 10), and Exhibits 2003, 2004, 2005, and 2006 to its expert, Dr. Jeffrey Winkler, who has executed the Default Protective Order. Petitioner further requests a five business day extension for filing objections to Exhibits 2003, 2004, 2005, and 2006. Petitioner reports that Patent Owner assents to the requested extension, but not Petitioner's remaining requests.

We decline to decide Patent Owner's Motion to File under Seal at this time; however, documents filed under seal will remain provisionally sealed.<sup>1</sup> To facilitate the parties' access to information filed under seal, we grant the parties' request for entry of the Default Protective Order. In so doing, we note that the confidentiality designation for sealed information subject to the protective order should permit access to that information by the parties and the Board, rather than limiting access to only the filing party and the Board. Accordingly, we also grant Petitioner's request that the PRPS confidentiality designations for Exhibits 2003, 2004, 2005, and 2006, as well as for Patent Owner's Unredacted Preliminary Response, be changed to parties and Board. We observe that entry of the Default Protective Order and amendment of the PRPS confidentiality designations should resolve Petitioner's request regarding access to the presently sealed documents by Dr. Winkler. Lastly, we grant Petitioner's request, agreed to by Patent Owner, for a five business day extension to the deadline for objecting to Exhibits 2003, 2004, 2005, and 2006.

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<sup>1</sup> We remind the parties that pursuant to our April 8, 2016 Order on the Conduct of the Proceeding (Paper 14), if a response as to which portions of the Decision to Institute should remain under seal is not received by April 28, 2016, the Decision to Institute will be made available to the public in its entirety. In addition, any purportedly confidential information discussed in the Final Determination will be made public upon issuance of that decision. *See* the Office Patent Trial Practice Guide, 77 Fed. Reg. 48760–48761 (Aug. 14, 2012).

It is

ORDERED that the parties' request for entry of the Default Protective Order, attached as Appendix A to Paper 7, to govern the treatment and filing of confidential information in this proceeding, is granted;

FURTHER ORDERED that the PRPS confidentiality access settings for the Unredacted Preliminary Response (Paper 10) and Exhibits 2003–2006 shall be updated to parties and Board; and

FURTHER ORDERED that Petitioner's request for a five business day extension to file objections to Exhibits 2003, 2004, 2005, and 2006 is granted.

IPR2016-00006  
Patent 8,497,393 B2

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