

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., TEVA PHARMACEUTICALS USA,
INC. and AKORN INC.,¹
Petitioners,

v.

ALLERGAN, INC.
Patent Owner.

Case IPR2016-01127 (US 8,685,930 B2)
Case IPR2016-01128 (US 8,629,111 B2)
Case IPR2016-01129 (US 8,642,556 B2)
Case IPR2016-01130 (US 8,633,162 B2)
Case IPR2016-01131 (US 8,648,048 B2)
Case IPR2016-01132 (US 9,248,191 B2)

PETITIONERS' MOTION TO SEAL

¹ Cases IPR2017-00576 and IPR2017-00594, IPR2017-00578 and IPR2017-00596, IPR2017-00579 and IPR2017-00598, IPR2017-00583 and IPR2017-00599, IPR2017-00585 and IPR2017-00600, and IPR2017-00586 and IPR2017-00601, have respectively been joined with the captioned proceedings. The word-for-word identical paper is filed in each proceeding identified in the caption pursuant to the Board's Scheduling Order (Paper 10).

I. STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.14, Petitioners respectfully submit Exhibits 1028-1031, 1034-1036, 1038, 1119-1121, and 1123-1131 under seal because Allergan has designated each of these documents confidential subject to the Stipulated Protective Order (Paper 15). Petitioners also respectfully submit their Reply and Exhibits 1039-1041 under seal because each of them discusses one or more of Exhibits 1028-1031, 1034-1036, 1038, 1119-1121, and 1123-1131 and/or Exhibits previously filed under seal by Allergan. Petitioners have filed a redacted version of Exhibit 1038 because the transcript clearly delineates the confidential and the non-confidential record. Petitioners have not presently filed a redacted version of the Reply, Exhibits 1034-1036, or Exhibits 1039-1041. Upon confirmation from Allergan that portions of these documents may be filed publicly or an order from the Board permitting the public filing, Petitioners are willing to file a public or redacted version of any of these documents.

II. GOOD CAUSE MUST EXIST FOR SEALING CONFIDENTIAL INFORMATION

The record of a proceeding is open and available for access by the public. *See* 37 C.F.R. § 42.14. The Board must find “good cause” to seal documents. *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 at 3 (PTAB April 5, 2013). “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." *The Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

The public's interest in having access to a party's confidential business or clinical research information that is only indirectly related to patent validity is "minimal." *Garmin* at 8-9 (granting the patent owner's motion to seal an agreement relating to the "commercializ[ation]" of the patent-at-issue). Here, good cause supports Petitioners' filing of the requested documents at least temporarily under seal because Petitioners are thereby complying with the Stipulated Protective Order in this Proceeding. Stipulated Protective Order. Paper 15 at 9 ("Information designated as confidential that is disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as 'PROTECTIVE ORDER MATERIAL' and shall be produced in a manner that maintains its confidentiality"). Petitioners understand that Allergan may wish to file a paper in support of sealing the material it has designated confidential.

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

Counsel for Petitioner Mylan has conferred with counsel for Allergan regarding Allergan's designation of confidentiality of Exhibits 1028-1031, 1034-1036, 1038, 1119-1121, and 1123-1131.

IV. CONCLUSION

For the reasons provided above, Petitioners request that the Board permit them to file the documents described above at least temporarily under seal.

Respectfully submitted,

Date: June 30, 2017

/ Steven W. Parmelee /

Steven W. Parmelee

Reg. No. 31,990

CERTIFICATE OF SERVICE

This is to certify that I caused to be served a true and correct copy of the foregoing Petitioners' Motion to Seal on this 30th day of June, 2017, on the Patent Owner at the correspondence address of the Patent Owner as follows:

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