

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

SAINT REGIS MOHAWK TRIBE,
Patent Owner.

Case IPR2016-01127 (8,685,930 B2)
Case IPR2016-01128 (8,629,111 B2)
Case IPR2016-01129 (8,642,556 B2)
Case IPR2016-01130 (8,633,162 B2)
Case IPR2016-01131 (8,648,048 B2)
Case IPR2016-01132 (9,248,191 B2)¹

Before SHERIDAN K. SNEDDEN, TINA E. HULSE, and
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

SNEDDEN, *Administrative Patent Judge*

DECISION
Granting Motions to Seal
37 C.F.R. §§ 42.14

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.

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

Exhibits 2086 and 2087

Pursuant to 37 C.F.R. § 42.14, Patent Owner filed, in each proceeding, motions to seal Exhibits 2086 and 2087 in their entirety. Paper 98.²

Petitioner filed an opposition to Patent Owner's motions to seal. Paper 101.

Generally speaking, all papers and evidence in the record of an *inter partes* review shall be made available to the public, except as otherwise ordered. Documents filed with a motion to seal, however, shall be treated as sealed until the motion is decided. 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14. The standard for granting a motion to seal is "good cause." 37 C.F.R. § 42.54. There is a strong public policy that favors making information filed in *inter partes* review proceedings open to the public. *See Garmin Int'l v. Cuozzo Speed Techs., LLC*, Case IPR2012-00001, slip op. at 1-2 (PTAB Mar. 14, 2013) (Paper 34) (discussing the standards applied to motions to seal). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). That includes showing that the information is truly confidential, and that such confidentiality outweighs the strong public interest in having an open record. *See Garmin*, slip op. at 3.

We have reviewed Patent Owner's motions to seal, the documents sought to be sealed, the proposed limited redactions and Petitioner's opposition and determine that Patent Owner has the better position at this time. In particular, we find that the information that Patent Owner seeks to

² Paper numbers and exhibits cited in this order refer to those documents filed in IPR2016-01127. Similar papers and exhibits were filed in the other proceedings.

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file under seal appears, on its face, to contain confidential or commercial information. We are further persuaded by Patent Owner's assertion that there is good cause to seal the Exhibits 2086 and 2087 because the limited redacted portions of these documents contain confidential information that was not relied upon by either party in any of the briefs related to Patent Owner's Motion to Dismiss. Paper 98, 1; *see also*, Papers 78, 86, and 93. As such, protecting the confidential information from public disclosure only minimally impacts the public's interest in maintaining a complete file history. Accordingly, based on the reasonably limited scope of the protection sought, we determine that good cause exists to grant the motions to seal.

The parties are reminded that information subject to a motion to seal may become public if identified in any decision in this proceeding, and that a motion to expunge the information will not necessarily prevail over the public interest in maintaining a complete and understandable file history. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,761 (Aug. 14, 2012).

Paper 86

Additionally, Petitioner filed under seal a confidential version of its Opposition to the Tribe's Motion to Dismiss, which quotes from Exhibits 2086 and 2087. *See* Paper 86. Patent Owner represents that "[t]he parties conferred on November 15, 2017 and agree that Paper 86 may be unsealed in its entirety." Per the parties' agreement, Paper 86 will be unsealed following entry of this Order. *See* Paper 101, 2–3.

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IPR2016-01131 (8,648,048 B2); IPR2016-01132 (9,248,191 B2)

Accordingly, it is
ORDERED that Patent Owner's Motion to Seal is GRANTED; and
FURTHER ORDERED that Paper 86 will be unsealed following entry
of this Order.

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