

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner

v.

ALLERGAN, INC.
Patent Owner

Case IPR2016-01131
Patent 8,648,048

**PATENT OWNER ALLERGAN, INC.'S MOTION TO SEAL
UNDER 37 CFR §§ 42.14 and 42.55**

Pursuant to 35 U.S.C. § 316 and 37 C.F.R. §§ 42.14 and 42.55, Allergan, Inc. (“Patent Owner”) respectfully submit this Motion to Seal Exhibits ALL 2028, ALL 2038, ALL 2046, ALL 2051, ALL 2055, ALL 2056, ALL 2057, ALL 2061, ALL 2062, ALL 2063, ALL 2054, ALL 2065, ALL 2072, and ALL 2073, which are being filed concurrent with the Response to Petition and this Motion, such that they are available to the Board and Parties only.

In support of this Motion, Patent Owner states as follows:

1. Exhibit ALL 2038 is a true and correct copy of the deposition transcript of David LeCause, Petitioner’s Vice President of U.S. Eye Care Sales, taken on February 10, 2017 in Civil Action No. 2:15-cv-1455-WCB (E.D. Tex.). The deposition transcript contains confidential information regarding financials, sales, and marketing of Petitioner’s Restasis® product.
2. Exhibits ALL 2046 and ALL 2063 are true and correct copies of confidential strategic marketing plans for Petitioner’s Restasis® product. The strategic plans contain confidential financial, marketing, and forecast information regarding Restasis®.
3. Exhibit ALL 2051 is a true and correct copy of a confidential U.S. Profit & Loss statement for Petitioner’s Restasis® product. The Profit & Loss statement contains confidential information regarding

Petitioner's revenues, expenses, and profits related to Restasis®.

4. Exhibits ALL 2055, ALL 2056, and ALL 2057 are true and correct copies of confidential documents detailing managed care coverage for Petitioner's Restasis® product. These documents contain confidential information regarding formulary coverage and reimbursement for Restasis® from managed care organizations.
5. Exhibits ALL 2061, ALL 2062, ALL 2064, and ALL 2065 are true and correct copies of confidential marketing plans related to Petitioner's Restasis® product. These documents contain confidential information regarding sales, marketing, and financial information regarding Restasis®.
6. Exhibit ALL 2072 is a true and correct copy of a document detailing internal prescription data for Petitioner's Restasis® product. The document contains confidential internal information regarding Restasis® prescriptions.
7. Exhibit ALL 2073 is a true and correct copy of a document detailing research and development expenses Petitioner incurred in developing Restasis®. The document contains confidential information regarding Petitioner's development expenses.

8. Exhibit ALL 2028 is a true and correct copy of a Declaration by Robert S. Maness, Ph.D. The document is confidential as it discusses one or more of the exhibits denoted as confidential.
9. The information included in Exhibits ALL 2028, ALL 2038, ALL 2046, ALL 2051, ALL 2055, ALL 2056, ALL 2057, ALL 2061, ALL 2062, ALL 2063, ALL 2054, ALL 2065, ALL 2072, and ALL 2073 is of a truly sensitive nature, and is being offered for the sole purpose of assisting the Board with understanding Patent Owner's arguments regarding non-obviousness.

For these reasons, Patent Owner respectfully requests the Board grant this Motion to Seal.

Pursuant to 37 CFR § 42.55(a), Patent Owner proposes entry of the default protective order found in Appendix B of the Trial Practice Guide.

Respectfully submitted,

Date: /March 20, 2017/

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DEFAULT PROTECTIVE ORDER

The following Standing Protective Order will be automatically entered into the proceeding upon the filing of a petition for review or institution of a derivation:

Standing Protective Order

This standing protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL.”

2. Access to confidential information is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) Parties. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.

(B) Party Representatives. Representatives of record for a party in the proceeding.

(C) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(D) In-house counsel. In-house counsel of a party.

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