

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner,

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 8,624,556 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)¹

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

HULSE, *Administrative Patent Judge*.

STANDING ORDER
37 C.F.R. § 42.5

¹ This order addresses issues that are common to the above-referenced cases. We, therefore, issue a single order that has been entered in each case. The parties may use this style caption when filing a single paper in multiple proceedings, provided that such caption includes a footnote attesting that “the word-for-word identical paper is filed in each proceeding identified in the caption.”

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IPR2016-01129 (US 8,624,556 B2); IPR2016-01130 (US 8,633,162 B2);
IPR2016-01131 (US 8,648,048 B2); IPR2016-01132 (US 9,248,191 B2)

A. REQUESTS FOR CONFERENCE CALLS

If the parties request a conference call, including an initial conference call, the parties must follow these procedures:

1. Prior to requesting a conference call, the parties must confer in an effort to resolve any issue to be discussed with the Board, or be prepared to explain to the Board why such a conference was not possible.
2. Parties may request a conference call by contacting the Board at the email address or telephone number listed above the caption of this Order. Requests via email are expected and preferred; requests via telephone should be reserved for time-critical circumstances. Requests by email must copy opposing counsel. Requests by telephone should include opposing counsel as practicable.
3. The request must include a list of proposed issues and/or motions to be discussed during the call.
4. The request may include a brief background discussion of the issue(s) and/or motion(s) to be discussed, but must not include arguments.
5. The request must certify that the parties conferred in accordance with Section A.1 of this Order, and must indicate the result of the conference (e.g., whether the non-requesting party opposes or does not oppose the request).
6. The request must include a list of dates and times when both parties are available for the call.

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B. PROTECTIVE ORDER

A protective order does not exist in this proceeding unless the parties file one and the Board approves it. If either party files a motion to seal before entry of a protective order, a jointly proposed protective order should be presented as an exhibit to the motion. We encourage the parties to adopt the Board's default protective order if they conclude that a protective order is necessary. *See* Default Protective Order, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, App. B (Aug. 14, 2012). If the parties choose to propose a protective order deviating from the default protective order, they must submit the proposed protective order jointly along with a redline comparison of the proposed and default protective orders showing the differences; and the parties must explain why the proposed deviations from the default protective order are necessary.

The Board has a strong interest in the public availability of the proceedings. We advise the parties that redactions to documents filed in this proceeding should be limited to isolated passages consisting entirely of confidential information, and that the thrust of the underlying argument or evidence must be clearly discernible from the redacted versions. We also advise the parties that information subject to a protective order will become public if identified in a final written 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. at 48,761.

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C. MOTIONS TO SEAL

A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed.

37 C.F.R. § 42.14. The moving party must also file the following as exhibits accompanying the motion:

1. A declaration explaining why the document or thing sought to be filed under seal is confidential or should otherwise be sealed.
2. If seeking to file a portion of a document under seal, a redacted version of the document must be filed publicly.
3. An unredacted version of the document must be filed confidentially (i.e., as available to the “Parties and Board Only”). The unredacted version must highlight or otherwise clearly indicate the portion(s) of the document that have been redacted in the redacted version.

If the moving party is seeking to file under seal a document containing information designated confidential by the opposing party, the declaration in support of the motion to seal must identify the party that has designated the material as confidential (“the designating party”). Within five business days, the designating party must file a response to the motion to seal and file a declaration as an exhibit that explains why the designated information is confidential or should otherwise be sealed.

D. MOTIONS TO AMEND

Patent Owner may file a motion to amend without prior authorization from the Board. Nevertheless, Patent Owner must confer with the Board before filing such a motion. *See* 37 C.F.R. § 42.121(a). Patent Owner should

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arrange for a conference call with the panel and opposing counsel at least two weeks before DUE DATE 1 to satisfy the requirement. We direct the parties to the Board's website for representative decisions relating to Motions to Amend, among other topics. The parties may access these representative decisions

at: http://www.uspto.gov/ip/boards/bpai/representative_orders_and_opinions.jsp.

E. DISCOVERY DISPUTES

The panel encourages the parties to resolve disputes relating to discovery on their own and in accordance with the precepts set forth in 37 C.F.R. § 42.1(b). To the extent that a dispute arises between the parties relating to discovery, the parties shall meet and confer to resolve such a dispute before contacting the Board. If attempts to resolve the dispute fail, a party may request a conference call with the Board in accordance with Section A.1 of this Order to seek authorization to file a motion for relief.

F. DEPOSITIONS

The parties are advised that the Testimony Guidelines appended to the Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,772 (Aug. 14, 2012) (Appendix D), apply to this proceeding. The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorneys' fees incurred by any party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness.

Whenever a party submits a deposition transcript as an exhibit in this proceeding, the submitting party shall file the full transcript of the deposition

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