

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ACRUX DDS PTY LTD., ACRUX LIMITED, and  
ARGENTUM PHARMACEUTICALS LLC,  
Petitioners,

v.

KAKEN PHARMACEUTICAL CO., LTD. and  
VALEANT PHARMACEUTICALS INTERNATIONAL, INC.,  
Patent Owner.

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Case: IPR2017-00190<sup>1</sup>  
U.S. Patent No. 7,214,506

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**PATENT OWNER'S MOTION TO PRESERVE THE RECORD**

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<sup>1</sup> Case IPR2017-01429 has been joined with the instant proceeding.

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## **I. RELIEF REQUESTED**

Pursuant to 37 C.F.R. § 42.56 and the Board's email authorization dated July 20, 2018, Patent Owner Kaken Pharmaceutical Co., Ltd. and Valeant Pharmaceuticals International, Inc. (collectively, "Patent Owner") respectfully moves the Board to preserve the record for appeal, maintain confidentiality of sealed documents, and to provide Patent Owner with an opportunity to file a motion to expunge sealed confidential information after appeal. Specifically, Patent Owner seeks (i) to preserve and maintain under seal Exhibits 1663, 2093-2095, 2098, and 2099, unredacted versions of Exhibits 1506, 1507, 1511, and 2116, and unredacted versions of Papers 52, 64, 69, and 74, and (ii) two weeks to file a motion to expunge after all opportunities for appeal.

Patent Owner conferred with Acrux DDS Pty Ltd., Acrux Limited, and Argentum Pharmaceuticals LLC (collectively "Petitioners"), who proposed preservation of the record until completion of any appeal.

## **II. BACKGROUND**

During the course of this *inter partes* review proceeding, Patent Owner filed three unopposed motions to seal. *See* Papers 25, 59, 72. Petitioners also filed four unopposed motions to seal. *See* Papers 36, 50, 62, 77. Both parties additionally requested entry of the Board's default protective order (*see* Office Patent Trial

Practice Guide, 77 Fed. Reg. 48,756, 48,771 (Appendix B: Standing Protective Order) (Aug 14, 2012)). *See* Paper 24 at 1 n.1; Paper 36 at 2.

Collectively, the parties' motions sought to seal, in their entirety, Exhibits 1663, 2093-2095, 2098, and 2099. Exhibit 1663 contains confidential sales data that constitute Patent Owner's confidential commercial and financial information that is not publicly available. *See* Paper 79 at 6; *see also* Paper 72 at 3-6; Paper 36 at 2; Paper 50 at 2-3. Exhibits 2093-2095, 2098, and 2099 contain select sales and prescription data that constitute Patent Owner's confidential commercial and financial information that is not publicly available. *See* Paper 79 at 3 (citing Paper 26, 3-5 [sic, Paper 25]); *see also* Paper 25 at 3-5; Paper 72 at 3-6; Paper 50 at 2-3; Paper 62 at 2-3; Paper 77 at 2.

The parties also sought to seal portions of Exhibits 1506, 1507, 1511, and 2116<sup>2</sup> and filed both redacted and unredacted versions of each exhibit. Exhibit 1506 is the deposition transcript of patent inventor, Dr. Yoshiyuki Tatsumi. Exhibit 1507 is the deposition transcript of Patent Owner's expert, Mr. Vince Thomas. Exhibit 1511 is Petitioners' expert, Mr. John Staines' rebuttal declaration. Exhibit 2116 is the deposition transcript of Mr. Staines. Designated portions of each of these documents include or refer to exhibits that contain Patent

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<sup>2</sup> Exhibit 2116 (unredacted version) is also referred to as "Exhibit 2116A" in Paper 72.

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