

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

QUALICAPS CO., LTD,
Patent Owner

IPR2017-00203
Patent 6,649,180 B1

JOINT MOTION TO SEAL

I. INTRODUCTION

Patent Owner and Petitioner jointly move to seal evidence produced pursuant to the Board's order on Petitioner's motion for additional discovery. Paper 35, 8. In particular, Patent Owner was ordered to file and serve (a) the complete transcript of the deposition of Mr. Masaru Tanjoh taken by Petitioner on March 22, 2017 in related district court litigation, and (b) "the documents relating to the experiments, data, and statements in Mr. Tanjoh's Declaration (Ex. 1010, 105–108) that were marked as exhibits" at the deposition. *Id.*

II. CONFIDENTIALITY DESIGNATIONS FROM LITIGATION

The confidentiality designations used in this proceeding reflect those defined in the protective order from the related district court litigation *Allergan Sales, LLC, and Qualicaps Co., Ltd. v. Mylan Pharmaceuticals, Inc., et al.*, Case No. 2:15-cv-01740-JRG-RS (consolidated with Case No. 2:15-cv-01741-JRG-RS for certain purposes), a copy of which is filed in this proceeding as Exhibit 2063.

The "PROTECTIVE ORDER MATERIAL" designation is governed as follows from the district court litigation protective order:

A Party shall designate documents, information or material as "CONFIDENTIAL" only upon a good faith belief that the

documents, information or material contains confidential or proprietary information or trade secrets of the Party or a Third Party to whom the Party reasonably believes it owes an obligation of confidentiality with respect to such documents, information or material.

Ex. 2063, 4–5.

The “RESTRICTED – ATTORNEYS’ EYES ONLY” and “RESTRICTED – OUTSIDE ATTORNEYS’ EYES ONLY” designations are governed as follows from the district court litigation protective order:

To the extent a producing Party believes that certain Protected Material qualifying to be designated CONFIDENTIAL is so sensitive that its dissemination deserves even further limitation, the producing Party may designate such Protected Material “RESTRICTED -- ATTORNEYS’ EYES ONLY” or “RESTRICTED - OUTSIDE ATTORNEYS’ EYES ONLY.” The designation of “RESTRICTED - OUTSIDE ATTORNEYS’ EYES ONLY” shall be used for documents, information, or material relating to sales by Qualicaps Co., LTD and licensing agreement made by Qualicaps Co., LTD, including license agreements between Qualicaps Co. LTD and Warner Chilcott (US) and/or Warner Chilcott Co. and license agreements between Qualicaps Co. LTD and Teva Pharmaceuticals USA, Inc., as well as documents or information that a Party believes in good faith contains information the disclosure of which is

highly likely to cause significant harm to an individual or to the business or competitive position of the Producing Party, including, for example, highly sensitive business and financial information, highly sensitive research and development information, unpublished patent applications, and information related to whether or when to commercialize or attempt to commercialize any drug product. For the avoidance of doubt, a Defendant's Abbreviated New Drug Application ("ANDA"), a Plaintiff's New Drug Application ("NDA"), FDA correspondence related to said ANDA or NDA, and other technical information shall be designated "RESTRICTED -- ATTORNEYS' EYES ONLY" not "RESTRICTED - OUTSIDE ATTORNEYS' EYES ONLY." Notwithstanding any other provision of this order, expert reports (and drafts of said expert reports that are in good faith intended to be served on an opposing party), pleadings or other documents served on either party (but not exhibits thereto containing RESTRICTED – OUTSIDE ATTORNEYS' EYES ONLY Protected Material) shall not be designated RESTRICTED – OUTSIDE ATTORNEYS' EYES ONLY.

Ex. 2063, 5–6.

III. DOCUMENTS SOUGHT TO BE SEALED

A. Masaru Tanjoh March 22, 2017 Deposition Transcript

The deposition transcript is submitted as IPR Exhibit No. 2064 in both redacted and non-redacted versions. Portions of the deposition transcript

were designated with the following confidentiality designations:

PROTECTIVE-ORDER MATERIAL: 35:6-39:17; 42:11-20;
43:21-46:19; 47:6-53:5; 54:15-57:1; 57:18-60:4; 61:20-63:20; 78:18-
95:14; 96:4-105:3; 111:20-129:2; 154:20-155:9; 156:3-157:2; 199:4-
201:21; 208:17-209:15; 211:9-214:20; 216:15-221:22; 222:11-225:8;
235:13-237:18; 238:21-239:18.

RESTRICTED--ATTORNEYS' EYES ONLY: 168:14-180:17;
182:1-199:5; 203:2-207:1; 207:11-208:16; 214:21-216:14; 226:12-
229:13; 237:19-238:10; 239:19-247:20.

RESTRICTED--OUTSIDE ATTORNEYS' EYES ONLY:
129:3-131:20; 153:19-154:12; 157:3-22; 158:1-15; 159:5-9; 161:11-
167:14; 225:9-226:11; 229:20-235:12.

Each page of the deposition transcript containing material having a confidentiality designation has been marked with the highest-level designation of material on that page and redacted in the redacted version.

B. Deposition Exhibits

Petitioner asked the Patent Owner to produce the following deposition exhibits having confidentiality designations (“AEO” means “Attorneys’ Eyes Only”):

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.