

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APOTEX INC., APOTEX CORP., ARGENTUM PHARMACEUTICALS  
LLC, ACTAVIS ELIZABETH LLC, TEVA PHARMACEUTICALS USA,  
INC., SUN PHARMACEUTICAL INDUSTRIES, LTD., SUN  
PHARMACEUTICAL INDUSTRIES, INC., AND SUN PHARMA GLOBAL  
FZE,  
Petitioners,

v.

NOVARTIS A.G.,  
Patent Owner.

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IPR2017-00854<sup>1</sup>  
Patent No. 9,187,405

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**PETITIONERS' MOTION TO SEAL**

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<sup>1</sup> Cases IPR2017-01550, IPR2017-01946, and IPR2017-01929 have been joined  
with this proceeding.

## **I. STATEMENT OF PRECISE RELIEF REQUESTED**

Pursuant to 37 C.F.R. § 42.14, Petitioners respectfully lodge Petitioners' Rely in Support of Motion to Exclude under seal because portions of the Reply discuss portions of documents that Novartis has designated confidential subject to the Stipulated Protective Order (Exhibit 2074). Petitioners have not presently filed a redacted version of their Reply, but intend to do so upon confirmation from Novartis that portions may be filed publicly or an order from the Board permitting the public filing.

## **II. GOOD CAUSE MUST EXIST FOR SEALING CONFIDENTIAL INFORMATION**

The record of a proceeding is open and available for access by the public. *See* 37 C.F.R. § 42.14. The Board must find "good cause" to seal documents. *Garmin v. Cuozzo*, IPR2012-00001, Paper 36 at 3 (PTAB April 5, 2013). "The rules aim to strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." *The Office Patent Trial Practice Guide*, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

The public's interest in having access to a party's confidential business or clinical research information that is only indirectly related to patent validity is "minimal." *Garmin* at 8-9 (granting the patent owner's motion to seal an

agreement relating to the “commercializ[ation]” of the patent-at-issue). Here, Petitioners lodge their Reply in Support of Motion to Exclude Evidence under seal to comply with the Stipulated Protective Order in this Proceeding. Exhibit 2074 at 8 (“Information designated as confidential that is disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as ‘PROTECTIVE ORDER MATERIAL’ and shall be produced in a manner that maintains its confidentiality”).

### **III. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY PURSUANT TO 37 C.F.R. §42.54**

Counsel for Petitioners have previously conferred with Patent Owner regarding its designation of material in EX1050, EX2022, EX2024, EX2057; and EX2063-EX2066 as confidential. Petitioners understand that Patent Owner may file a paper supporting sealing of portions of Petitioners’ Reply in Support of Motion to Exclude in accordance with the Board’s rules.

### **IV. CONCLUSION**

For the reasons provided above, Petitioners request that the Board permit Petitioners to lodge their Reply in Support of Motion to Exclude Evidence under seal.

Respectfully submitted,

Date: April 30, 2018

/ Steven W. Parmelee/

Steven W. Parmelee

Reg. No. 31,990

**CERTIFICATE OF SERVICE**

This is to certify that I caused to be served a true and correct copy of the foregoing Petitioners' Motion to Seal, on this 30th day of April, 2018, on the Patent Owner at the correspondence address of the Patent Owner as follows:

Jane M. Love, Ph.D.  
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Respectfully submitted,

Dated: April 30, 2018

/ Steven W. Parmelee /  
Steven W. Parmelee, Lead Counsel  
Reg. No. 31,990