

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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.

IPR2017-00854¹
Patent No. 9,187,405

PETITIONER'S MOTION TO SEAL

¹ 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, Petitioner respectfully submits Petitioner's Motion for Discovery under seal because it discusses Exhibits 1042 through 1045. Novartis has designated each of these documents confidential subject to the Stipulated Protective Order (Exhibit 2074). Petitioner has not presently filed a redacted version of the Motion. Upon confirmation from Novartis that portions of the Motion may be filed publicly or an order from the Board permitting the public filing, Petitioner is willing to file a redacted version of the Motion.

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, Petitioner files Exhibits 1042-1045 and its Motion under seal because Petitioner is thereby complying with the Stipulated Protective Order in this Proceeding. Stipulated Protective Order. 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 Petitioner has conferred with counsel for Patent Owner regarding the confidentiality of the Exhibits referenced in Petitioner’s motion and in Exhibits 1042 through 1045. Petitioner understands that Patent Owner may file a paper supporting sealing of all or portions of the sealed documents in accordance with the Board’s rules.

IV. CONCLUSION

For the reasons provided above, Petitioner requests that the Board permit Petitioner to file its Motion for Discovery under seal.

Respectfully submitted,

Date: January 22, 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 Petitioner's Motion to Seal, on this 22nd day of January, 2018, on the Patent Owner at the correspondence address of the Patent Owner as follows:

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Respectfully submitted,

Dated: January 22, 2018

/ Steven W. Parmelee /
Steven W. Parmelee, Lead Counsel
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