

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 lodges Petitioner's Reply to Patent Owner's Response and Exhibits 1047 and 1050 under seal because portions of them discuss portions of documents that Novartis has designated confidential subject to the Stipulated Protective Order (Exhibit 2074). Such exhibits may include portions of EX1042, EX2022, EX2024, EX2025, EX2057; and EX2063-EX2066 and Patent Owner's Response. Petitioner also submits Exhibit 1051 under seal because Novartis has designated that document confidential subject to the Stipulated Protective Order (Exhibit 2074). Petitioner has not presently filed a redacted version of its Reply or Exhibits 1047 and 1050, but intends to do so upon confirmation from Novartis that portions of these documents 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, Petitioner lodges its Reply to Patent Owner’s Response and Exhibits 1047, 1050, and 1051 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 Petitioner has previously conferred with Patent Owner regarding its designation of material in EX1042, EX2022, EX2024, EX2025, EX2057; and EX2063-EX2066 as confidential. Petitioner understands that Patent Owner may file a paper supporting sealing of portions of Petitioner’s Reply to Patent Owner’s Response and Exhibits 1047, 1050, and 1051 in accordance with the Board’s rules.

IV. CONCLUSION

For the reasons provided above, Petitioner requests that the Board permit

Petitioner to lodge its Reply to Patent Owner's Response and Exhibits 1047, 1050,
and 1051 under seal

Respectfully submitted,

Date: February 16, 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 16th day of February, 2018, on the Patent Owner at the correspondence address of the Patent Owner as follows:

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Respectfully submitted,

Dated: February 16, 2018

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