

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 AG,

Patent Owner.

Case IPR2017-00854¹
U.S. Patent No. 9,187,405

STIPULATED PROTECTIVE ORDER

Mail Stop Patent Board
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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

The following Protective Order governs the treatment and filing of confidential information, including documents and testimony in the instituted *Inter Partes* Review captioned above.

1. Confidential information shall be clearly marked “PROTECTIVE ORDER MATERIAL,” or “OUTSIDE ATTORNEYS’ EYES ONLY – PROTECTIVE ORDER MATERIAL.” Unless otherwise agreed by the Parties, “PROTECTIVE ORDER MATERIAL” and “OUTSIDE ATTORNEYS’ EYES ONLY – PROTECTIVE ORDER MATERIAL” shall be used by a receiving party solely for this proceeding, and shall not be used for any other purpose whatsoever.

2. “PROTECTIVE ORDER MATERIAL” designates material that reflects or contains (i) confidential, proprietary, or commercially sensitive information; or (ii) confidential information of a non-party that the producing party is bound to maintain in confidence pursuant to a separate confidentiality agreement or court order and that the producing party is permitted to produce in this proceeding.

3. “OUTSIDE ATTORNEYS’ EYES ONLY – PROTECTIVE ORDER MATERIAL” designates material that reflects or contains any of the following categories of information: (i) highly sensitive business planning, trading, marketing, financial, pricing, or sales information; (ii) any confidential, proprietary, or commercially sensitive information that the producing party

believes in good faith will result in significant risk of competitive disadvantage or harm if disclosed to another party without restriction upon use or further disclosure, or that affords the producing party an actual or potential economic advantage over others; or (iii) third party settlement agreements and communications, including discussions or negotiations regarding potential settlements.

4. Access to confidential information marked “PROTECTIVE ORDER MATERIAL” is limited to the following individuals who have executed the acknowledgment appended to this order:

(A) *Parties*. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.

(B) *Party Representatives*. Representatives of record for a party in the proceeding.

(C) *Experts*. Retained experts of a party in the proceeding who sign the Acknowledgement (attached).

(D) *In-house counsel*. In-house counsel of a party.

(E) *Other Employees of a Party*. Employees, consultants or other persons performing work for a party, other than in-house counsel and in-house counsel’s

support staff, who sign the Acknowledgement shall be extended access to confidential information only upon agreement of the parties or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential information.

(F) *The Office.* Employees and representatives of the Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(G) *Support Personnel.* Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

5. Access to Confidential information marked “OUTSIDE ATTORNEYS’ EYES ONLY – PROTECTIVE ORDER MATERIAL” is limited to the following individuals:

(A) *Party Representatives*. Representatives of record for a party in the proceeding.

(B) *Experts*. Retained experts of a party in the proceeding who sign the Acknowledgement (attached).

(C) *In-house counsel*. One in-house counsel of a party.

(D) *The Office*. Employees and representatives of the Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(E) *Support Personnel*. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the

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