

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TARO PHARMACEUTICALS U.S.A., INC.,
Petitioner,

v.

APOTEX TECHNOLOGIES, INC.,
Patent Owner.

Case No. IPR2017-01446

U.S. Patent No. 7,049,328 B2

Title: USE FOR DEFERIPRONE

PATENT OWNER'S MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner, Apotex Technologies, Inc. (“Apotex”), respectfully requests that the Board seal Patent Owner’s Opposition to Petitioner’s Motion to Compel Routine Discovery, or in the Alternative, for Additional Discovery (“the Opposition”).

The parties have conferred and agreed to the provisions of the Modified Default Standing Protective Order set forth in Exhibit 1051, and have stipulated to be bound by its terms. The Modified Default Standing Protective Order provides:

A party may file documents or information with the Board under seal, together with a non-confidential description of the nature of the confidential information that is under seal and the reasons why the information is confidential and should not be made available to the public. The submission shall be treated as confidential and remain under seal, unless, upon motion of a party and after a hearing on the issue, or *sua sponte*, the Board determines that the documents or information do not to qualify for confidential treatment.

(Ex. 1051 (Modified Default Standing Protective Order).)

The Opposition refers to information contained in Exhibits 1037-1045 and 1047-1049, which are documents that Patent Owner has designated as Highly Confidential pursuant to the Stipulated Protective Order entered in the concurrent district court case, *ApoPharma Inc. v. Taro Pharmaceutical Industries, Ltd.*, Case No. 2:16-cv-00528 (E.D. Tex.). Patent Owner therefore filed the Opposition under seal, along with a publicly-available redacted version of the Opposition.

I. GOOD CAUSE EXISTS FOR SEALING THE DOCUMENTS

Although “the default rule is that all papers filed in an *inter partes* review are open and available for access by the public,” a party may file a motion with the Board to seal confidential information that is protected from disclosure. *See Garmin Int’l, Inc. v. Cuozzo Speed Techs., LLC*, IPR2012-00001, Paper No. 34 (PTAB Mar. 14, 2013). “The standard for granting a motion to seal is ‘for good cause.’” *Id.* (quoting 37 C.F.R. § 42.54). The Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012), states that the “rules identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.”

Patent Owner is filing an Opposition to Petitioner’s Motion to Compel Routine Discovery, or in the Alternative, for Additional Discovery, which refers to materials that Patent Owner has designated as “Highly Confidential” under the Stipulated Protective Order filed in the concurrent district court case. Patent Owner is seeking to seal the Opposition, and based on Patent Owner’s designation in the ongoing district court litigation, there is good cause to seal these documents.

II. CERTIFICATION OF CONFERENCE WITH OPPOSING PARTY PURSUANT TO 37 C.F.R. § 42.54

The parties have conferred and Petitioner does not oppose this motion.

THEREFORE, Patent Owner respectfully requests that the Board grant this Motion to Seal.

Respectfully Submitted,

Dated: April 23, 2018

/W. Blake Coblentz/
W. Blake Coblentz
Counsel for Patent Owners

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CERTIFICATE OF SERVICE

I hereby certify that, on April 23, 2018, I caused a true and correct copy of the foregoing materials: PATENT OWNER'S MOTION TO SEAL to be served via electronic mail on the following attorneys of record:

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