

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

Patent No. 7,049,328 B2

Title: USE FOR DEFERIPRONE

Inter Partes Review No. IPR2017-01446

PETITIONER'S MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Petitioner Taro Pharmaceuticals U.S.A., Inc. respectfully requests that the Board seal portions of Petitioner’s Reply. The Reply refers to materials that Patent Owner Apotex Technologies, Inc. has designated as Confidential “PROTECTIVE ORDER MATERIAL” pursuant to the Modified Default Standing Protective Order (Ex. 1051).¹

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. *Garmin v. Cuozzo*, IPR2012-00001, Paper No. 34 (PTAB March 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 (‘FRCP’) 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information.”

Petitioner is filing its Reply under seal, as well as a publicly available redacted version of this document. The redacted portions of the document describe certain

¹ The Board entered the stipulated Modified Default Standing Protective Order on May 11, 2018. (Paper 34 at 3.)

documents already filed and served in this proceeding and designated by Patent Owner as “PROTECTIVE ORDER MATERIAL” pursuant to the Modified Default Standing Protective Order entered by the Board (Ex. 1051, *see supra* n.1). Because Petitioner is concurrently filing a publicly available redacted version of the document, it is seeking to seal only the limited portions of the document that references information deemed by Patent Owner to be PROTECTIVE ORDER MATERIAL. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012) (noting that parties are encouraged “to redact sensitive information, where possible, rather than seeking to seal entire documents”). Based on Patent Owner’s designations, and the Board’s prior finding of good cause to seal the designated information (Paper 37), there is good cause to seal the designated information here.

Certification of Conference with Opposing Party Pursuant to 37 C.F.R. § 42.54

The parties have conferred and Patent Owner does not oppose this motion.

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

Respectfully submitted,

Dated: June 13, 2018

/s/ Huiya Wu
Huiya Wu (Reg. No. 44,411)
Robert V. Cerwinski (to seek *pro hac vice*
admission)
Sarah Fink (Reg. No. 64,886)

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 13th day of June, 2018, I caused to be served a true and correct copy of the foregoing “PETITIONER’S MOTION TO SEAL” to be served via electronic mail on the following attorneys of record:

W. Blake Coblentz
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By: /s/ Ryan Curiel
Ryan Curiel