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 IPR2017-01446
U.S. Patent No. 7,049,328 B2

Title: USE FOR DEFERIPRONE

PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION TO EXCLUDE EVIDENCE

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I. INTRODUCTION

Petitioner Taro Pharmaceuticals U.S.A., Inc.'s ("Taro") attempt to exclude Patent Owner Apotex Technologies Inc.'s ("Apotex") relevant evidence of patentability should be denied. Specifically, the Board should reject Taro's attempts to exclude Exhibits 2006, 2008, 2010, 2014, 2015, and 2016 because each of these Exhibits is relevant to the proceeding at hand and because none of these Exhibits are inadmissible for lack of authentication or hearsay.

II. LEGAL STANDARDS

"The party moving to exclude evidence bears the burden of proof to establish that it is entitled to the relied requested—namely, that the material sought to be excluded is inadmissible under the Federal Rules of Evidence." *Sipnet EU S.R.O. v. Straight Path IP Group, Inc.*, IPR2013-00246, Paper 63 at 2 (PTAB Oct. 9, 2014) (*citing* 37 C.F.R. §§ 42.20(c), 42.62(a)). Motions to exclude are disfavored by the Board, since "[t]here is a strong public policy for making all information filed in a non-jury, quasi-judicial administrative proceeding available to the public, especially in an *inter partes* review which determines the patentability of claims in an issued patent. It is better to have a complete record of the evidence submitted by the parties than to exclude particular pieces." *Nichia Corp. v. Emcore Corp.*, IPR2012-00005, Paper 68 at 59 (PTAB Feb. 11, 2014).

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