

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

---

**WATSON LABORATORIES, INC.**

Petitioner

v.

**UNITED THERAPEUTICS CORP.**

Patent Owner

Patent No. 9,358,240

Issue Date: June 7, 2016

Title: TREPROSTINIL ADMINISTRATION BY INHALATION

---

*Inter Partes* Review No. 2017-01621

---

**PATENT OWNER'S MOTION TO FILE UNDER SEAL**

*37 C.F.R. § 42.54*

Pursuant to 37 C.F.R. § 42.54, United Therapeutics Corporation (“Patent Owner”) hereby submits this Motion to Seal certain portions of Exhibit 2204.

### **I. Good Cause Exists for Sealing Certain Confidential Information**

The Office Patent Trial Practice Guide provides that “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.” 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). These 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.” *Id.* (citing 37 C.F.R. § 42.54).

Good cause exists to support the sealing of the requested portions of Ex. 2204. These portions contain confidential material describing details about the development of Patent Owner’s commercial product, Tyvaso<sup>®</sup>. The proposed scope of confidential information in Ex. 2204 is narrowly limited in this motion to details about expertise in particular areas possessed by certain inventors, and this proposed scope of confidential information is also currently designated confidential in the litigation where the deposition occurred (*United Therapeutics Corp. v. Watson Laboratories, Inc.* (D.N.J., Civil Action No. 3:15-cv-5723)). The

confidential information designated by this motion could be improperly used by competitors to gain unfair business and competitive advantage with customers in the marketplace, including using details of Patent Owner's development process for competitive commercial products.

## **II. Certification of Non-Publication**

On behalf of Patent Owner, undersigned counsel certifies that, to the best of their knowledge, the information sought to be sealed by this Motion to Seal has not been published or otherwise made public. Efforts to maintain the confidentiality of this information have been undertaken by Patent Owner in the related district court proceeding noted above, and such information currently is under seal in that litigation.

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

Patent Owner has conferred with Petitioner about both this motion to seal and the acceptance of the appended default protective order, and Petitioner has consented to the default protective order attached as Appendix A.

## **IV. Proposed Protective Order**

Patent Owner submits a copy of the stipulated protective order attached as Appendix A, to which both parties have agreed. It is the Default Protective Order in the Office Patent Trial Practice Guide, 77 Fed. Reg.

48756, 48771 (Aug. 14, 2012).

## V. Conclusion

For the reasons stated above, Patent Owner respectfully requests that the proposed portions of Exhibit 2204 remain under seal.

Date: March 23, 2018

Respectfully submitted,

/Stephen B. Maebius/  
Stephen B. Maebius  
Registration No. 35,264

George E. Quillin  
Registration No. 32,792

Foley & Lardner LLP  
3000 K Street, N.W., Suite 600  
Washington, D.C. 20007

Shaun R. Snader  
Registration No. 59,987  
United Therapeutics Corporation  
1735 Connecticut Avenue, N.W.  
Second Floor  
Washington, DC 20009

Counsel for Patent Owner

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing MOTION TO SEAL, is being served on March 23, 2018, by filing this document through the PTAB E2E System as well as delivering copies via email to the following counsel for the Petitioner:

Michael K. Nutter (Reg. No. 44,979)  
WINSTON & STRAWN LLP  
35 W. Wacker Dr.  
Chicago, IL 60601  
Email: mnutter@winston.com

Andrew R. Sommer (Reg. No. 53,932)  
WINSTON & STRAWN LLP  
1700 K Street, N.W.  
Washington, DC 20006-3817  
Email: asommer@winston.com

Kurt A. Mathas  
WINSTON & STRAWN LLP  
35 W. Wacker Dr.  
Chicago, IL 60601  
Email: kmathas@winston.com

/Stephen B. Maebius/  
Stephen B. Maebius  
Registration No. 35,264  
George E. Quillin  
Registration No. 32,792  
Shaun R. Snader  
Registration No. 59,987  
Counsel for Patent Owner

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.