

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WATSON LABORATORIES, INC.
Petitioner,

v.

UNITED THERAPEUTICS, CORP.
Patent Owner.

Cases IPR2017-01621 and IPR2017-01622
Patents 9,358,240 B2 and 9,339,507 B2

Before TONI R. SCHEINER, ERICA A. FRANKLIN,
and DAVID COTTA, *Administrative Patent Judges*.

COTTA, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Motion to Seal and Entry of Protective Order
37 C.F.R. §§ 42.14 and 42.54

I. INTRODUCTION

On March 23, 2018, United Technologies Corp. (“Patent Owner”) filed a Motion to Seal. Paper 32 (“Motion” or “Mot.”).¹ The motion seeks to seal portions of Exhibit 2204, a deposition taken in a pending district court litigation. Mot. 1. The motion also seeks entry of the Default Protective Order set forth in the Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48771 (Aug. 14, 2012). *Id.* at 2. Patent Owner represents that the information sought to be sealed has not been made public and that Patent Owner has made efforts to maintain the confidentiality of the information. *Id.* at 2. Patent Owner further represents that the information is of the type that, if disclosed, “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.” *Id.* at 1–2. Petitioner has indicated that it does oppose Patent Owner’s motion to file portions of Exhibit 2204 under seal. Ex. 3006. Finally, Patent Owner represents that it has conferred with Petitioner and that both parties agree to entry of the Default Protective Order. *Id.*

The standard for granting a motion to seal is “good cause.” 37 C.F.R. § 42.54. There is a strong public policy that favors making information filed

¹ There are slight differences in the numbering of Papers and Exhibits in IPR2017-01621 and IPR2017-01622. Notwithstanding these differences, the papers relating to the motions addressed herein are substantively identical. Unless otherwise noted, for the convenience of the Board, citations to Papers and Exhibits referenced herein are only to IPR2017-01621, with the understanding that there exists a corresponding, substantively identical, Paper or Exhibit in IPR2017-01622.

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in *inter partes* review proceedings open to the public. See *Garmin International v. Cuozzo Speed Technologies, LLC*, Case IPR2012-00001, slip op. at 1-2 (PTAB March 14, 2013) (Paper 34) (discussing the standards of the Board applied to motions to seal). The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). That includes showing that the information is truly confidential, and that such confidentiality outweighs the strong public interest in having an open record.

Upon consideration of the parties' arguments, the proposed protective order, and the information sought to be redacted, Patent Owner's motion is granted. Patent Owner has shown that the material sought to be sealed is, or at least appears on its face to be, confidential financial information.

Petitioner does not contest Patent Owner's request to treat portions of Exhibit 2204 as confidential information subject to the standard protections of the default protective order.

Accordingly, it is hereby

ORDERED that Patent Owner's Motion to Seal is granted;

FURTHER ORDERED that the proposed protective order, submitted as Appendix A to the Motion is entered, and governs the treatment and filing of confidential information in this proceeding; and

FURTHER ORDERED that the parties must obtain authorization from the Board before filing any other papers or exhibits under seal during this proceeding.

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