

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

Patent No. 9,339,507

Issue Date: May 17, 2016

Title: TREPROSTINIL ADMINISTRATION BY INHALATION

Inter Partes Review No. 2017-01621

Inter Partes Review No. 2017-01622

**PATENT OWNER'S UNOPPOSED MOTION TO EXPUNGE
UNDER 37 C.F.R. § 42.56¹**

¹ A word-for-word identical document is being filed in IPR2017-01621 and IPR2017-1622.

I. INTRODUCTION

Under 37 C.F.R. § 42.56, Patent Owner United Therapeutics Corporation (“Patent Owner”) hereby moves to permanently expunge certain confidential information from the record, namely the unredacted versions of Exhibits 2049-2051, 2053, 2055, 2058, 2065-2068, 2071, 2074, 2075, 2083, 2088, 2089, and 2204 in their entireties. Patent Owner has conferred with counsel for Watson Laboratories, Inc., (“Petitioner”) on this matter, and Petitioner does not oppose this motion. The identified documents all disclose and discuss confidential information that could be improperly used by competitors to gain unfair business and competitive advantage with customers in the marketplace.

If the Board is not inclined to grant this motion, Patent Owner respectfully requests a conference call with the Board to discuss the issues raised in this motion before any information becomes irreversibly public.

II. AUTHORIZATION FOR THE MOTION

Patent Owner contacted the Board by email for authorization on August 29, 2018 to file a motion to expunge under 37 C.F.R. § 42.56 and received authorization to do so on August 30, 2018.

III. IDENTIFICATION OF PAPERS AND EXHIBITS TO BE EXPUNGED

The following list identifies the non-redacted exhibits to be expunged:

Non-redacted Exhibits
Ex. 2049
Ex. 2050
Ex. 2051
Ex. 2053
Ex. 2055
Ex. 2058
Ex. 2065
Ex. 2066
Ex. 2067
Ex. 2068
Ex. 2071
Ex. 2074
Ex. 2075
Ex. 2083
Ex. 2088
Ex. 2089
Ex. 2204

Exhibits 2049-2051, 2055, 2058, 2065-2068, 2071, 2074, 2075, 2083, 2088, and 2089 were filed under seal in their entireties. Redacted, public versions of Exhibits 2053 and 2204 were filed pursuant to motions to seal. To be clear, Patent Owner is not seeking to have the redacted, public versions expunged.

IV. REASONS FOR ENTITLEMENT TO RELIEF

Each of the redacted documents contains information that the Board has already ruled upon and determined to be confidential, so good cause has already been found by the Board for sealing this information.

The PTAB Trial Practice Guide states that confidential information “ordinarily” becomes public 45 days after final judgment in a trial. Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012); *see also* Comment 172, 77 Fed. Reg. 48612, 48644. The Board’s rules, however, “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.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,760 (Aug. 14, 2012).

In the present case, a settlement was reached and the proceeding has been terminated prior to the issuance of a final written decision. Redacted, public versions of certain exhibits were filed and already exist in the docket. Making the sealed documents public at this time would prejudice Patent Owner for the reasons set forth below and in the previous motions to seal.

The Board’s Order Granting Joint Motion to Terminate the Proceeding After Institution and Request to Treat Settlement Agreement as Business Confidential Information (Paper No. 64) contains no confidential information and can be fully understood by the public. Whereas the public would not benefit from revealing the

confidential information, Patent Owner could be placed at a competitive disadvantage.

V. CONCLUSION

For the reasons set forth above and in the previous motions to seal, Patent Owner respectfully requests that the aforementioned exhibits be expunged from the record.

Date: Sept. 5, 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

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.