

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. 9,339,507

Issue Date: July 13, 2017

Title: TREPROSTINIL ADMINISTRATION BY INHALATION

Inter Partes Review No. 2017-01622

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[®]. 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,

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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:

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