

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WATSON LABORATORIES, INC.
Petitioner,

v.

UNITED THERAPEUTICS, CORP.
Patent Owner.

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

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

COTTA, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Motion to Expunge
37 C.F.R. § 42.5

IPR2017-01621 (Patent 9,358,240 B2)
IPR2017-01622 (Patent 9,339,507 B2)

On September 5, 2018, having received prior authorization from the Board, Patent Owner, United Therapeutics, Corp., filed a Motion to Expunge Confidential Information from the Record. IPR2017-01621, Paper 65; IPR2017-01622, Paper 65. Patent Owner requests that we expunge Exhibits 2049–2051, 2055, 2058, 2065–2068, 2071, 2074, 2075, 2083, 2088, and 2089 in their entireties. *Id.* at 2. In addition, Patent Owner requests that we expunge the unredacted, non-public versions of Exhibits 2053 and 2204. *Id.* To be clear, Patent Owner does not request that we expunge the redacted, public versions of Exhibits 2053 and 2204. Patent Owner represents that Petitioner, Watson Laboratories, Inc., does not oppose this motion. *Id.* at 1.

Information filed under seal ordinarily becomes publicly available after final judgment. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48761 (Aug. 14, 2012). The expectation that sealed information will become public generally applies, “where the existence of the information is referred to in a decision to grant or deny a request to institute a review or is identified in a final written decision following a trial.” *Id.* However, under 37 C.F.R. § 42.56, a party seeking to maintain the confidentiality of information filed under seal may file a motion to expunge confidential information from the record.

On August 21, 2018, the parties filed a Joint Motion to Terminate Proceedings. IPR2017-01621, Paper 62; IPR2017-01622, Paper 63. In light of the parties’ settlement, we entered an order terminating the proceeding on August 27, 2018. IPR2017-01621, Paper 64; IPR2017-01622, Paper 64. We did not enter a Final Written Decision in this proceeding, nor did we rely on any information in the documents Patent Owner asks us to expunge in disposing of any issues in this proceeding. Moreover, we have already

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determined that “Patent Owner has shown that the material it seeks to maintain under seal is of a confidential nature, the disclosure of which could be used by competitors to gain unfair business and competitive advantages.” IPR2017-01621, Paper 49, 3; IPR2017-01622, Paper 50, 3; IPR2017-01621, Paper 36, 3; IPR2017-01622, Paper 36, 3. Accordingly, based on the record before us, the need to protect the confidentiality of the documents at issue outweighs the public interest in unsealing them.

In consideration of the foregoing, it is:

ORDERED that the non-public versions of Exhibits 2049–2051, 2055, 2058, 2065–2068, 2071, 2074, 2075, 2083, 2088, and 2089 be expunged from the record; and

FURTHER ORDERED that the unredacted, non-public versions of Exhibits 2053 and 2204 be expunged from the record.

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