

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ELI LILLY AND COMPANY,
Petitioner,

v.

TEVA PHARMACEUTICALS INTERNATIONAL GMBH,
Patent Owner.

Case IPR2018-01710 (Patent 8,586,045 B2)
Case IPR2018-01711 (Patent 9,884,907 B2)
Case IPR2018-01712 (Patent 9,884,908 B2)¹

Before JENNIFER MEYER CHAGNON, JAMES A. WORTH, and
RICHARD J. SMITH, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION
Granting Patent Owner's Unopposed Motions to Expunge
37 C.F.R. § 42.56

¹ This Order addresses issues that are common to all three cases. We, therefore, issue a single Order that has been entered in each case.

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After entry of the Final Written Decisions in the above-captioned cases, Patent Owner timely filed a motion to expunge from the record the confidential version of Exhibit 2257 in each of the above-captioned cases. Paper 70 (“Mot.”).² The motions to expunge are not opposed by Petitioner.

The Rules of Practice for Trial before the Patent Trial and Appeal Board provide that:

Confidential information that is subject to a protective order ordinarily would become public 45 days after denial of a petition to institute a trial or 45 days after final judgment in a trial. There is an expectation that information will be made public 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. A party seeking to maintain the confidentiality of information, however, may file a motion to expunge the information from the record prior to the information becoming public.

Patent Trial and Appeal Board Consolidated Trial Practice Guide³ 21–22; *see also* 37 C.F.R. § 42.56 (“After denial of a petition to institute a trial or after final judgment in a trial, a party may file a motion to expunge confidential information from the record.”).

Patent Owner asserts that the sealed exhibit “contains information relating to highly-confidential and competitively-sensitive business information [and] that the Board did not rely on it in its Final Written Decision.” Mot. 1. Patent Owner further asserts that “public disclosure of

² We cite to papers in IPR2018-01710 unless otherwise indicated. Patent Owner filed similar papers in each of the above-captioned proceedings. The relevant Exhibit is the confidential version of Exhibit 2257 in each of the proceedings.

³ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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the confidential version of Exhibit 2257 would cause significant competitive harm not only to Patent Owner, but also to a third party who is not part of this proceeding.” *Id.* at 3.

Patent Owner asserts that “[n]one of the redacted portions of the confidential version of Exhibit 2257 are material to this proceeding, as neither party cited to a confidential portion of the confidential version of Exhibit 2257,” and the “Board’s Final Written Decision did not cite or discuss Exhibit 2257.” Mot. 3–4. Patent Owner further asserts that “the record contains a public redacted version of Exhibit 2257 that contains all the information upon-which the Parties did rely.” *Id.* at 4. Thus, according to Patent Owner, “the public’s access to the redacted version of Exhibit 2257 fulfills the public’s interest in maintaining a complete and understandable record, and the expungement of the confidential version of Exhibit 2257 from the record will not diminish the public’s understanding of the Final Written Decision.” *Id.*

Based on our consideration of the foregoing, we grant Patent Owner’s request to expunge the confidential version of Exhibit 2257 in each of the above-captioned proceedings.

ORDER

Accordingly, it is hereby
ORDERED that Patent Owner’s Motions to Expunge are *granted*; and
FURTHER ORDERED that the confidential version of Exhibit 2257
is expunged from the record in each of the above-captioned proceedings.

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IPR2018-01711 (Patent 9,884,907 B2)

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