

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APOTEX INC.
Petitioner,

v.

UCB BIOPHARMA SPRL,
Patent Owner.

Case IPR2019-00400
Patent 8,633,194

**PATENT OWNER'S MOTION TO SEAL AND FOR ENTRY OF A
PROTECTIVE ORDER PURSUANT TO 37 C.F.R. § 42.54**

Patent Owner UCB Biopharma Sprl hereby moves for entry of the Protective Order appended as Addendum A and further moves to seal Exhibit 3005, which contains Patent Owner's confidential information. Patent Owner has concurrently with this motion filed a redacted, non-confidential version of Exhibit 3005 (EX2008), which Patent Owner consents may be made available on the public docket.

Patent Owner and Petitioner have discussed this Motion, and Petitioner does not oppose this Motion.

I. MOTION TO SEAL

Patent Owner moves to seal Exhibit 3005. Exhibit 3005 is an email sent on July 24, 2019 by counsel for Patent Owner, Robert Counihan, to the Board providing certain information requested by the Board in its July 15, 2019 Decision on Institution of *Inter Partes* Review of U.S. Patent No. 8,633,194 B2 (IPR2019-00400, Paper 17). In particular, Exhibit 3005 discloses the nature of the relationship between Patent Owner and Sanofi-Aventis with respect to the patent subject to this proceeding and the product Xyzal 24HR[®]. As reflected in the redacted version of Exhibit 3005 that Patent Owner has provided with this Motion, Patent Owner respectfully requests that only the portion of Exhibit 3005 that addresses this relationship be maintained under seal.

The standard for granting a motion to seal is "for good cause." 37 C.F.R.

§ 42.54. Good cause exists here because the nature of the relationship between Patent Owner and Sanofi-Aventis is competitively-sensitive, non-public, business information that is itself subject to confidentiality obligations between Patent Owner and Sanofi-Aventis. *See, e.g. Westinghouse Air Brake Techs. Corp. v. Siemens Mobility, Inc.*, IPR2017-01669, Paper 60 (PTAB Jan. 8, 2019) (granting motion to seal similar information). Moreover, the strong public policy for making all information filed in *inter partes* review proceedings available to the public should not apply here because the information that Patent Owner requests to keep confidential does not relate to the patentability of claims in an issued patent or otherwise affect the rights of the public.

II. MOTION FOR ENTRY OF A PROTECTIVE ORDER

Pursuant to 37 CFR § 42.54(a), a motion to seal must be accompanied by a proposed protective order and a certification that the parties have met-and-conferred regarding the issue. On July 29, 2019, Patent Owner emailed counsel for Petitioner to notify Petitioner of Patent Owner's intent to file the present motion and propose that the parties adopt the Board's default protective order, which is appended as Addendum A. Petitioner had no objections to the requests made in this motion. Patent Owner respectfully requests that the Board's default protective order be entered in this proceeding.

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board grant this motion to seal and entry of a protective order.

Dated: July 30, 2019

Respectfully submitted,

/s/ James S. Trainor (Electronically signed)
James S. Trainor, Reg. No. 52,297
Lead Counsel

Robert E. Counihan, Reg. No. 61,382
Back-Up Counsel

Fenwick & West LLP
902 Broadway, Suite 14
New York, NY 10010
(212) 430-2600
jtrainor@fenwick.com
rcounihan@fenwick.com

Erica R. Sutter, Reg. No. 77,450
801 California Street
Mountain View, CA 94041
(650) 988-8500
esutter@fenwick.com

*Counsel for Patent Owner UCB Biopharma
Sprl*

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on July 30, 2019, the foregoing document is being served by filing this document through the Patent Trial and Appeal Board End to End System, as well as by delivering a copy via electronic mail upon the following counsel of record for the Petitioner:

jitty.malik@kattenlaw.com
alissa.pacchioli@kattenlaw.com
joe.janusz@kattenlaw.com
lance.soderstrom@kattenlaw.com

Date: July 30, 2019

Respectfully submitted,

/s/ James S. Trainor (Electronically signed)
James S. Trainor
Reg. No. 52,297
Phone: (212) 921-2001

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.