

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 PURSUANT TO 37 C.F.R. § 42.54

Patent Owner UCB Biopharma Sprl hereby moves to seal Attachment A to the Parties' Joint Stipulation Regarding the Deposition of Domenico Fanara (filed available to everyone as Paper No. 26, and filed available to Board and parties as Paper No. 27), which contains Patent Owner's confidential information. In connection with that Stipulation, Patent Owner has filed a redacted, non-confidential version of Attachment A (identified as "Attachment B" to the Joint Stipulation).

On July 30, 2019, Patent Owner submitted an unopposed Motion to Seal and for Entry of a Protective Order Pursuant to 37 C.F.R. § 42.54 (Paper No. 18), which remains pending in this proceeding. Accordingly, Patent Owner has proceeded under the guidelines of the pending Protective Order.

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

I. MOTION TO SEAL

Patent Owner moves to seal Attachment A to the Parties' Joint Stipulation Regarding the Deposition of Domenico Fanara (Paper No. 26). Attachment A is an excerpted version of the deposition of inventor Domenico Fanara which was taken in the related district court litigation (*UCB, Inc. et al. v. Apotex Inc.*, No. 0-18-cv-60846 (S.D. Fla.)). That deposition was marked "highly confidential" under the protective order of that case. *See UCB, Inc. et al. v. Apotex Inc.*, ECF Nos. 34 and 38.

Excerpted portions of deposition testimony now submitted in Attachment A to the Parties' Joint Stipulation discloses certain confidential information subject to the district court protective order. Specifically, the deposition testimony contains (1) information relating to a strategic partnership with a pharmaceutical company not party to this proceeding and (2) details regarding Patent Owner's pharmaceutical formulations. None of the confidential information has previously been made public.

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 the third-party pharmaceutical company, and the specifications for Patent Owner's pharmaceutical formulations are competitively-sensitive, non-public, business information. *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). The information further does not relate to the patentability of claims in an issued patent or otherwise affect the rights of the public. Further, as reflected in the redacted version of Attachment A that Patent Owner has submitted with the Parties' Joint Stipulation (Attachment B), the proposed redactions are minimal.

II. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board

grant this motion to seal.

Dated: November 26, 2019

Respectfully submitted,

/Robert E. Counihan/ (Electronically signed)
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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that on November 26, 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:

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Respectfully submitted,

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