

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PFIZER INC.,¹
Petitioner,

v.

NOVO NORDISK A/S,
Patent Owner.

IPR2020-00324²
Patent 8,114,833 B2

Before ERICA A. FRANKLIN, JOHN G. NEW, and
SUSAN L. C. MITCHELL, *Administrative Patent Judges*.

FRANKLIN, *Administrative Patent Judge*.

DECISION

Granting Patent Owner's Motion to Seal
Paper 44 and Exhibit 2096
37 C.F.R. §§ 42.14 and 42.54

¹ The proceeding has been terminated as to the original petitioner, Mylan Institutional LLC. Paper 67.

² IPR2020-01252 has been joined with this proceeding. *See* Paper 33.

I. INTRODUCTION

Patent Owner moves to seal its Patent Owner Sur-Reply (Paper 44) and the Transcript of the Deposition of Laird Forrest, Ph.D. (Ex. 2096). Paper 46 (“Mot.”). The motion is unopposed. For the reasons explained below, we grant the motion.

II. DISCUSSION

“There is a strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public, especially in an *inter partes* review which determines the patentability of claims in an issued patent and therefore affects the rights of the public.” *Garmin Int’l v. Cuozzo Speed Techs., LLC*, IPR2012-00001, Paper 34, 1–2 (PTAB Mar. 14, 2013). A motion to seal may be granted for good cause. 37 C.F.R. § 42.54. The moving party bears the burden of showing that there is good cause for the relief requested, including why the information is appropriate to be filed under seal. 37 C.F.R. §§ 42.20, 42.54; *see also Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3–4 (PTAB Jan. 19, 2018) (informative) (discussing factors the Board may consider when deciding whether to grant a motion to seal documents asserted to contain confidential information). The Patent Trial and Appeal Board Consolidated Trial Practice Guide (“CTPG”) notes that 37 C.F.R. § 42.54 identifies confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret

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or other confidential research, development, or commercial information.
CTPG at 19.³

In the motion, Patent Owner asserts that “good cause exists for placing portions of Exhibit 2096 and the Sur-Reply under seal for all of the reasons set forth by Novo Nordisk in Paper No. 22 [Patent Owner’s Motion to Seal and for Entry of A Protective Order], including that both Exhibit 2096 and the Sur-Reply contain confidential, non-public research and development information in the form of proprietary clinical and scientific data.” Mot. 2. Patent Owner has filed a redacted, public version of the Patent Owner Sur-Reply (Paper 45) and a redacted, public version of the Transcript of the Deposition of Laird Forrest, Ph.D. (Ex. 2097).

Based on the foregoing, we determine that Patent Owner has shown good cause to seal the confidential version of the Patent Owner Sur-Reply (Paper 44) and the Transcript of the Deposition of Laird Forrest, Ph.D. (Ex. 2096).

III. ORDER

Accordingly, it is

ORDERED that Patent Owner’s Motion to Seal Paper 44 and Exhibit 2096 is *granted*;

³ November 2019 Edition, *available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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For PETITIONER PFIZER:

Thomas J. Meloro
tmeloro@willkie.com

Michael W. Johnson
Mjohnson1@willkie.com

For PATENT OWNER:

Jeffrey Oelke
joelke@fenwick.com

Ryan Johnson
Ryan.johnson@fenwick.com

Laura Moran
Laura.moran@fenwick.com