

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PFIZER INC.,<sup>1</sup>  
Petitioner,

v.

NOVO NORDISK A/S,  
Patent Owner.

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Case IPR2020-00324<sup>2</sup>  
Patent 8,114,833

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**PATENT OWNER'S UNOPPOSED RENEWED MOTION TO SEAL  
EXHIBITS 2023, 1078, AND 1079**

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

<sup>2</sup> IPR2020-01252 has been joined with this proceeding. Paper 33.

## I. INTRODUCTION

On June 8, 2021, the Board denied without prejudice Patent Owner Novo Nordisk A/S (“Novo Nordisk”)’s motion to seal Exhibit 2023, which was originally filed as Paper 22 on September 18, 2020. *See* Paper 72. On June 8, 2021, the Board also denied without prejudice Petitioner Mylan Institutional LLC (“Mylan”)’s motion to seal Exhibits 1078 and 1079, which was originally filed as Paper 34 on December 14, 2020. *See* Paper 74.

The Board explained that Novo Nordisk had not demonstrated that the Declaration of Dorthe Kot Engelund (Exhibit 2023) should be sealed in its entirety. Paper 72 at 4. The Board noted, for example, that paragraphs 1-9 of the declaration did not contain information that may be considered confidential. *Id.* The Board exercised its discretion to maintain Exhibit 2023 under a provisional seal to allow Novo Nordisk the opportunity to file this renewed motion to seal Exhibit 2023, along with a redacted, public version of the exhibit. *Id.*

Similarly, the Board explained that Petitioner had not filed redacted versions of the deposition transcripts of Novo Nordisk’s declarants, Dorthe Kot Engelund and Tina B. Pedersen (Exhibits 1078 and 1079). Paper 74 at 4. The Board further noted that Petitioner had not asserted that those Exhibits should be sealed in their entirety, nor had either party shown good cause for doing so. *Id.* The Board exercised its discretion to maintain Exhibits 1078 and 1079 under a provisional seal to allow the

opportunity to file a renewed motion to seal, along with a redacted, public versions of the Exhibits. *Id.* at 5.

Pursuant to the Board's June 8, 2021 decisions on the parties' motions to seal (Papers 72 and 74), Novo Nordisk respectfully renews its motion to seal portions of Exhibit 2023, and Petitioner's motion to seal portions of Exhibits 1078 and 1079<sup>3</sup>. Petitioner does not oppose this renewed motion to seal.

## II. RENEWED MOTION TO SEAL

Novo Nordisk's motion to seal explained that certain Exhibits and the Patent Owner Response disclosed Novo Nordisk's confidential information and provided Novo Nordisk's position as to why good cause exists to seal those Exhibits and portions of the Patent Owner Response. *See* Paper 22. The motion to seal was further accompanied by a proposed Protective Order. *Id.*

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<sup>3</sup> Novo Nordisk is renewing Petitioner Mylan's original motion to seal because this proceeding has been terminated as to Petitioner Mylan (Paper 67), and because Petitioner Pfizer and Novo Nordisk have settled their dispute (April 16, 2021 email from J. Oelke to the Board seeking leave to file a joint motion to terminate). Moreover, it is Novo Nordisk who asserts that Exhibits 1078 and 1079 contain confidential information.

On June 8, 2021, the Board granted Patent Owner’s Motion for Entry of the Default Protective Order, ordering that it shall govern the treatment and filing of confidential information in this proceeding. Paper 72. The Board found good cause existed to seal certain exhibits in their entirety and portions of certain papers, based on Novo Nordisk’s representations that the documents contained confidential, non-public research and development information in the form of proprietary clinical and scientific data. *See* Paper 72 at 3-4.

Exhibits 2023, 1078, and 1079 have previously been marked as confidential under the Protective Order entered in this proceeding (Paper 22) and have previously been filed under seal, as they discuss material designated as “CONFIDENTIAL – PROTECTIVE ORDER MATERIAL” by Novo Nordisk.

Novo Nordisk submits that good cause exists to maintain portions of Exhibits 2023, 1078, and 1079 under seal for all of the reasons set forth by Novo Nordisk in Paper 22, including that Exhibits 2023, 1078, and 1079 contain confidential, non-public research and development information in the form of proprietary clinical and scientific data. *See* Paper 22 at 2-3. Accordingly, Novo Nordisk has prepared versions of the Exhibits that redact only those portions of the Exhibits containing confidential information. Novo Nordisk has, concurrently with this renewed motion, filed these redacted, non-confidential versions of Exhibits 2023, 1078, and 1079, as Exhibits 2099, 2100, and 2101, respectively.

Novo Nordisk respectfully requests that the confidential versions of Exhibits 2023, 1078, and 1079 remain under seal, and consents that the redacted versions, filed as Exhibits 2099, 2100, and 2101, may be made available on the public docket.

Novo Nordisk is serving Petitioner Pfizer, concurrently with this renewed motion, a copy of this renewed motion and the redacted, non-confidential versions of Exhibits 2023, 1078, and 1079, which have been filed as Exhibits 2099, 2100, and 2101, respectively. Novo Nordisk and Pfizer have discussed this renewed motion, and Pfizer does not oppose it, nor does Pfizer take a position on the confidentiality of the information that Novo Nordisk seeks to maintain under seal.

### **III. CONCLUSION**

Because good cause exists to seal portions of Exhibits 2023, 1078, and 1079, Novo Nordisk respectfully requests that the Board grant this renewed motion. To the extent the Board has any concerns regarding the redactions that have been entered to the public, non-confidential versions of the Exhibits, Novo Nordisk respectfully requests the opportunity to address those concerns.

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