

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REGENERON PHARMACEUTICALS, INC.,
Petitioner

v.

NOVARTIS PHARMA AG,
NOVARTIS TECHNOLOGY LLC,
NOVARTIS PHARMACEUTICALS CORPORATION,
Patent Owners

Case IPR2020-01318
Patent 9,220,631

PATENT OWNERS' MOTION TO SEAL

Pursuant to 37 C.F.R. §§ 42.14, 42.22, and 42.54, Patent Owners Novartis Pharma AG, Novartis Technology LLC, and Novartis Pharmaceuticals Corporation (collectively, “Novartis”) respectfully request that the Board seal Exhibits 2030-2039, filed herewith, which contain confidential research and development information of Patent Owner. In support of this Motion, Patent Owner is concurrently filing an unopposed motion for entry of a Modified Default Standing Protective Order (Ex. 2047), which is based on the Board’s default protective order. *See* 37 C.F.R. § 42.54(a). The parties have conferred and agreed to the provisions of the Modified Default Protective Order set forth in Exhibit 2047.

In determining whether to grant a Motion to Seal, the Board must find “good cause” and “strike a balance between the public’s interest in maintaining a complete and understandable file history and the parties’ interest in protecting truly sensitive information.” 37 C.F.R. § 42.54(a); Consolidated Trial Practice Guide November 2019 at 19. As described in the *Consolidated Trial Practice Guide*, the Board 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 or other confidential research, development, or commercial information.”

Id.

All of the information that Novartis seeks to seal in this motion is related to the confidential research and development of the subject matter of the ’631 patent,

as explained in more detail below. The information that Novartis seeks to seal is non-public and proprietary. In addition, these documents contain confidential information of third parties. To the undersigned's knowledge, the information sought to be sealed by this motion has not been published or otherwise made public.

Exhibit 2030 is the Declaration of named inventor Marie Picci. The redacted portions of this declaration contain information pertaining to Novartis scientists' research and development work related to the subject matter of the '631 patent, and are therefore "confidential research [and] development . . . information" pursuant to FRCP 26(c)(1)(G). Additionally, the redacted portions of Exhibit 2030 contain confidential information of a third party and should not be subject to public disclosure in this action.

Exhibits 2031 and 2032 are a Novartis internal PowerPoint Presentation and technical report, respectively, authored by one of the named inventors. These exhibits contain information pertaining to Novartis scientists' research and development work related to the subject matter of the '631 patent, and are therefore "confidential research [and] development . . . information" pursuant to Fed. R. Civ. P. 26(c)(1)(G). Exhibits 2031 and 2032 also contain confidential information of third parties and should not be subject to public disclosure in this action.

Exhibits 2033 –2039 are Meeting Minutes for Novartis team meetings.

These Meeting Minutes are internal communications within Novartis pertaining to research and development activities related to the subject matter of the '631 patent being conducted by scientists at Novartis, and are therefore “confidential research [and] development . . . information” pursuant to Fed. R. Civ. P. 26(c)(1)(G).

Exhibits 2033, 2034, 2036 –2039 also contain confidential information of a third party and should not be subject to public disclosure in this action.

The proprietary information contained in Exhibits 2030–2039 is not essential to an understanding of the accompanying Patent Owners’ Preliminary Response and does not impede the public’s understanding of the file history of the '631 patent. The public’s interest in accessing this information for the purposes of the patentability of the challenged claims in this proceeding is outweighed by Patent Owners’ interest in maintaining its proprietary research and development information as confidential. Accordingly, good cause exists to seal Exhibits 2030–2039.

Novartis respectfully requests that the Board grant Patent Owners’ Motion to Seal.

Dated: October 22, 2020

By: */Elizabeth J. Holland/*
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