

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIQUIDIA TECHNOLOGIES, Inc.,
Petitioner,

v.

UNITED THERAPEUTICS CORPORATION,
Patent Owner.

IPR2021-00406
U.S. Patent No. 10,716,793

**PATENT OWNER'S UNOPPOSED 3rd MOTION TO FILE
UNDER SEAL**

37 C.F.R. § 42.54

Pursuant to 37 C.F.R. § 42.54, United Therapeutics Corporation (“Patent Owner”) hereby submits this 3rd Motion to Seal Exhibits 2096 and 2097.

I. Good Cause Exists for Sealing Certain Confidential Information

The Office Patent Trial Practice Guide provides that “the rules aim to 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.” 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012). These rules “identify 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.* (citing 37 C.F.R. § 42.54).

The Board has granted a Motion to Seal certain exhibits in their entireties for similar reasons in *Purdue Pharma L.P. v. Depomed, Inc.*, IPR2014-00377, paper no. 62 at 4-6 (PTAB March 17, 2015), where “Patent Owner avers that the ‘highly confidential nature of’ the information contained in those documents makes it ‘impossible to reasonably redact [them] for public disclosure.’” *Id.* at 4.

The transcripts of Exhibits 2096 and 2097 were designated as “Confidential” and “Highly Confidential” in their entireties by Liquidia Corporation, Petitioner in this proceeding and defendant in the Delaware litigation. Accordingly, Patent Owner files these excerpts under seal in this

proceeding per its obligations under the district court protective order, and per Petitioner's lack of objection to Patent Owner doing so. Petitioner is the party with knowledge as to why good cause exists for the confidentiality designation and why the "highly confidential nature of" the information contained in those documents makes it 'impossible to reasonably redact [them] for public disclosure." *Purdue Pharma L.P. v. Depomed, Inc.*, IPR2014-00377, Paper No. 62, at 4 (PTAB March 17, 2015).

II. Certification of Non-Publication

On behalf of Patent Owner, undersigned counsel certifies that, to the best of their knowledge, the information sought to be sealed by this Motion to Seal has not been published or otherwise made public. Efforts to maintain the confidentiality of this information have been undertaken by Patent Owner in the related proceedings noted above.

III. Certification of Conference with Opposing Party Pursuant to 37 C.F.R. § 42.54

Patent Owner has conferred with Petitioner about both the PTAB's Default Protective Order and motion to seal relating to Patent Owner's confidential information, and the Parties have agreed to be bound by the PTAB's Default Protective Order. Per Appendix B of the Trial Practice Guide, the Default Protective Order is not being separately filed.

IV. Protective Order

The confidential information will be subject to the Default Protective Order from the Trial Practice Guide, to which the parties have agreed to be bound in this proceeding.

V. Conclusion

For the reasons stated above, Patent Owner respectfully requests that EX2096 and EX2097 remain under seal.

Date: March 16, 2022

Respectfully submitted,

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Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing MOTION TO SEAL, is being served on March 16, 2022 by filing this document through the PTAB E2E System as well as delivering copies via email to the following counsel for the Petitioner:

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