

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 IPR2021-00816
Patent 9,220,631

SECOND MODIFIED DEFAULT PROTECTIVE ORDER

SECOND MODIFIED DEFAULT PROTECTIVE ORDER

This protective order governs the treatment and filing of confidential and Outside Counsel Only information, including documents and testimony.

1. Confidential information shall be clearly marked “CONTAINS CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER.”
2. Access to confidential information is limited to the following individuals who have executed the acknowledgment appended to this order:
 - (A) Party Representatives. Representatives of record for a party in the proceeding.
 - (B) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.
 - (C) In-house counsel. Two in-house counsel representatives of a party.
 - (D) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be

informed of the terms and requirements of the Protective Order by the person they are supporting who receives confidential information.

- (E) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

3. Outside Counsel Only information shall be clearly marked

“CONTAINS OUTSIDE COUNSEL ONLY INFORMATION, SUBJECT TO PROTECTIVE ORDER.” Outside Counsel Only information includes documents produced by Third Parties in *Certain Pre-Filled Syringes for Intravitreal Injection & Components Thereof*, ITC Investigation No. 337-TA-1207 (“the ITC Investigation”), deposition transcripts of Third Party witnesses in the ITC Investigation and exhibits thereto, and declarations of Third Party witnesses in the ITC Investigation.

4. Access to Outside Counsel Only information is limited to the following individuals who have executed the acknowledgement appended to this order:

- (A) Party Representatives. Representatives of record for a party in the proceeding, excluding any in-house counsel who are of record.
- (B) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.
- (C) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and requirements of the Protective Order by the person they are supporting who receives Outside Counsel Only information.
- (D) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

5. ~~3.~~ Employees (e.g., corporate officers), consultants, or other persons performing work for a party, other than those persons identified above in 2(A)–(D) or 4(A)–(C), shall be extended access to confidential and Outside Counsel Only information, respectively, only upon agreement of the parties (including agreement by any Third Party in the case of Outside Counsel Only Information) or by order of the Board upon a motion brought by the party seeking to disclose confidential information to that person and after signing the Acknowledgment. The party opposing disclosure to that person shall have the burden of proving that such person should be restricted from access to confidential or Outside Counsel Only information.

6. ~~4.~~ Persons receiving confidential or Outside Counsel Only information shall use reasonable efforts to maintain the confidentiality of the information, including:

- (A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;
- (B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient uses to maintain the confidentiality of information not received from the disclosing party;

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