

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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REGENERON PHARMACEUTICALS, INC.,  
Petitioner,

v.

NOVARTIS PHARMA AG, NOVARTIS TECHNOLOGY LLC,  
NOVARTIS PHARMACEUTICALS CORPORATION,  
Patent Owner.

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IPR2021-00816  
Patent 9,220,631 B2

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Before ERICA A. FRANKLIN, ROBERT L. KINDER, and  
JAMIE T. WISZ, *Administrative Patent Judges*.

KINDER, *Administrative Patent Judge*.

ORDER

Directing the Submission of a Redacted Public Version of the  
Final Written Decision and Granting the Joint Motion to Expunge Certain  
Exhibits

*37 C.F.R. §§ 42.5 and 42.14*

*Public Version of the Final Written Decision*

On October 25, 2022, the Board issued a Final Written Decision (“Decision,” Paper 113) in this proceeding, but restricted its access to “Board and Parties Only” because the Decision references numerous exhibits and information that we have previously sealed pursuant to the Second Modified Default Protective Order (Paper 103) entered on July 8, 2022. The confidential materials were protected pursuant to our orders granting motions to seal filed by Novartis Pharma AG, Novartis Technology LLC, and Novartis Pharmaceuticals Corporation (collectively, “Novartis”) and a motion to seal filed by Regeneron Pharmaceuticals, Inc. (“Regeneron”). *See* Papers 22, 103, 105 (orders granting motions to seal).

The parties shall meet and confer and jointly submit, via email, a proposed redacted version of the Decision on or before November 18, 2022. If any disagreement exists, the parties may schedule a conference call prior to that due date.

Any redactions should weigh heavily the strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public, especially when that information is contained in a final written decision. *See* Paper 15. For example, the parties should not propose redacting any information that is otherwise publicly available or disclosed in other proceedings publicly. The Board will review all redactions and may schedule a conference call to discuss redactions it deems unnecessary or excessive. Otherwise, the redacted copy of the Decision submitted by the parties will be entered as the publicly accessible version of the Decision.

*Expungement of Certain Exhibits*

Novartis originally filed, but later withdrew, a Motion to Amend in this proceeding. Papers 36, 37, 89. Because a significant amount of evidence filed in support or opposition to this withdrawn Motion to Amend is confidential, but is no longer relevant to any issue in this proceeding, we requested that the parties consider whether any exhibits could be expunged from this proceeding. The parties filed a “Joint Motion to Expunge” (Paper 111) on August 12, 2022. The Joint Motion requests that the Board expunge 44 exhibits that are not relied upon for any issue decided in this proceeding. *See* Paper 111 (listing 44 exhibits that the parties jointly request to expunge).

Having now verified that the Decision does not rely on any of the exhibits that the parties seek to expunge, the parties request to expunge the identified 44 exhibits is granted. We have considered the public’s interest in maintaining a complete and understandable file history of this *inter partes* review, but because Novartis withdrew its Motion to Amend, the information contained in these exhibits is now irrelevant to any issue in the proceeding, which negates the public’s interest. The expunged exhibits are set forth below.

*Order*

Accordingly, it is:

ORDERED that the parties shall submit, via email, a proposed redacted version of the Decision on or before November 18, 2022; and

FURTHER ORDERED that the “Joint Motion to Expunge” (Paper 111) is granted. The Board shall expunge (and delete from PTAB E2E) the following exhibits:

1101	1110	1112	1113	1114
1116	1117	1118	1119	1120
1121	1122	1123	1124	1125
1126	1127	1128	1129	1130
1131	1132	1133	1134	1135
1136	1160	1163	1164	1165
1166	1167	1169	1181	2208
2210	2211	2212	2213	2214
2218	2222	2229	2230	

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