

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APOTEX INC.,
Petitioner

v.

NOVO NORDISK A/S,
PATENT OWNER

CASE IPR2024-00631
U.S. PATENT NO. 10,335,462
ISSUED: JULY 2, 2019

TITLE:
USE OF LONG-ACTING GLP-1 PEPTIDES

APOTEX'S THIRD MOTION TO SEAL

I. INTROUDCTION

Pursuant to the protective order and 37 C.F.R. § 42.14, Petitioner Apotex Inc. (“Apotex”) hereby moves to seal (1) Patent Owner’s (“Novo’s”) Patent Owner Preliminary Response (the “POPR”), Paper No. 15, (2) Apotex’s Reply to the POPR (the “Reply”), and (3) Ex. 2010.¹ Good cause exists for sealing those documents. That is because those documents contain Apotex’s confidential business information, which, if disclosed, would likely cause competitive harm to Apotex.

Apotex requested entry of the Board’s default protective order in its First Motion. Novo has consented to the default protective order. Ex. 3001.

II. GOOD CAUSE EXISTS TO SEAL THE OPPOSITION AND REPLY

Pursuant to the protective order and 37 C.F.R. § 42.14, Apotex moves to seal the POPR, the Reply, and Ex. 2010. As the Board has found in similar cases, “good cause” exists to seal those documents because they contain Apotex’s business information that has not been made public. *Celltrion, Inc., v. Genentech, Inc.*, IPR2016-01667, Paper No. 20 at 4 (PTAB Aug. 18, 2017) (granting motion to

¹ Apotex previously filed a motion to seal (“First Motion”), Paper No. 3, (1) its Motion for Joinder Under 35 U.S.C. § 315(c) and 37 C.F.R. §§ 42.22 and 42.122(b) to *Inter Partes Review* of IPR2023-00724 (the “Joinder Motion”) and (2) the Declaration of Robert Shapiro (the “Shapiro Declaration”), Ex. 1507. Novo did not oppose the First Motion.

seal non-public business information, including information about drug development and regulatory strategies), Paper No. 31 at 4 (PTAB July 23, 2018) (granting motion to expunge that information from the record); *Unified Patents Inc. v. Dragon Intellectual Prop., LLC*, IPR2014-00216, Paper No. 40, 6-7 (PTAB Feb. 27, 2015) (granting motion to seal non-public business information, including information relating to business strategies); *see also* 37 C.F.R. § 42.54.

Specifically, certain portions of the POPR, the Reply, and Ex. 2010 contain confidential information that describes Apotex's confidential drug development and regulatory approval strategies. Those portions of the documents are those that reference or incorporate confidential information from the Shapiro Declaration, the Joinder Motion, the POPR, or Ex. 2010. *See* First Motion (describing confidential information in the Shapiro Declaration and the Joinder Motion). If the confidential information in POPR, the Reply, and Ex. 2010 were publicly disclosed, it would likely cause competitive business harm to Apotex.

The versions of the POPR and Ex. 2010 that Novo filed are unredacted and nonpublic. Because the entirety of Ex. 2010 contains confidential information, Apotex has not filed a redacted version. Concurrently with this motion, Apotex has filed a public version of the POPR redacting the limited portions of the motion

that reference or incorporate confidential information from the Shapiro Declaration, the Joinder Motion, or Ex. 2010.

Apotex has filed a unredacted, nonpublic version of the Reply concurrently with this motion. Apotex has also concurrently filed a redacted, public version of its Reply redacting the limited portions of the motion that reference or incorporate confidential information from the Shapiro Declaration, the Joinder Motion, the POPR, or Ex. 2010.

III. CONCLUSION

For the foregoing reasons, Apotex respectfully requests that the Board grant this motion to seal.

Dated: July 1, 2024
STEPTOE LLP
1114 Avenue of the Americas
New York, NY 10036
Telephone: 212-506-3900
Fax: 212-506-3950
Email: Semaglutide@Steptoe.com

Respectfully submitted,

/John J. Molenda/
John J. Molenda
Reg. No. 47,804
Lead Counsel for Apotex

CERTIFICATE OF SERVICE

The undersigned certifies that, in accordance with 37 C.F.R. § 42.6(e) and 37 C.F.R. § 42.105, and with Patent Owner's consent, electronic service of APOTEX'S THIRD MOTION TO SEAL was made on Patent Owner to the following email addresses:

J. Steven Baughman
Megan Raymond
Michael F. Milea
Joshua Reich
GROOMBRIDGE, WU, BAUGHMAN & STONE LLP
steve.baughman@groombridgewu.com
megan.raymond@groombridgewu.com
mike.milea@groombridgewu.com
joshua.reich@groombridgewu.com
Novo-Semaglutide-IPR@groombridgewu.com

Dated: July 1, 2024

/s/ John J. Molenda
John J. Molenda (Reg. No. 47,804)
Lawrence Kass (Reg. No. 40,671)
Tyler Doh (Reg. No. 80,274)
Michael I. Green (Reg. No. 80,436)
STEPTOE LLP
1114 Avenue of the Americas
New York, NY 10036
Tel: (212) 506-3900

Counsel for Apotex