

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LUPIN LTD., LUPIN PHARMACEUTICALS INC.,
INNOPHARMA LICENSING, INC., INNOPHARMA LICENSING LLC,
INNOPHARMA INC., INNOPHARMA LLC,
MYLAN PHARMACEUTICALS INC., and MYLAN INC.,
Petitioners,

v.

SENJU PHARMACEUTICAL CO., LTD.,
Patent Owner.

Case IPR2015-01097 (Patent 8,754,131 B2)¹
Case IPR2015-01100 (Patent 8,927,606 B1)²
Case IPR2015-01105 (Patent 8,871,813 B2)³

Before FRANCISCO C. PRATS, ERICA A. FRANKLIN, and
GRACE KARAFFA OBERMANN, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

ORDER⁴
Granting Second Motion for
Entry of Stipulated Protective Order
37 C.F.R. §§ 42.14 and 42.54

¹ Case IPR2016-00089 has been joined with this proceeding.

² Case IPR2016-00091 has been joined with this proceeding.

³ Case IPR2016-00090 has been joined with this proceeding.

⁴ This Order addresses issues common to each proceeding; therefore, we enter the identical order in each proceeding.

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In an Order dated June 21, 2016, the Board denied Patent Owner's request to enter a Stipulated Protective Order. Paper 58.⁵ That same day, the Board denied without prejudice all pending motions to seal documents. Papers 58–62. On July 18, 2016, the parties filed a Second Motion for Entry of a Stipulated Protective Order. Paper 64 (“Motion” or “Mot.”). This Order addresses that Motion, which includes a copy of an Amended Proposed Stipulated Protective Order. Mot., App'x A (“Amended SPO”). The Motion shows how the Amended Stipulated Protective Order differs from the Board's Default Protective Order. Mot., App'x B.

On July 29, 2016, each party filed a Motion to Seal under the terms of the Amended Stipulated Protective Order. *See* Papers 65, 68. Further, on August 1, 2016, Patent Owner filed a Second Renewed Motion to Seal. *See* Paper 69. Concurrently herewith, we issue orders addressing those motions.

The Board entered a Final Written Decision on September 12, 2016. Paper 70.

Procedural History of Request for Entry of Stipulated Protective Order

Previously, the Board determined that the proposed Stipulated Protective Order was “not in an adequate form for entry.” Paper 58, 3. We identified three reasons for that determination. First, the proposed protective order recited “variations of the term ‘party’ with apparently different meanings.” *Id.* Second, we determined that a proposed category of

⁵ The parties attest that a “word-for-word identical paper” was filed in each proceeding. Mot. 1 n.4. For convenience, we refer to papers filed in IPR2015-01097.

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confidential information—namely, “PROTECTIVE ORDER MATERIAL—FED R. EVID 615”—was not shown to be necessary, given that discovery had concluded. *Id.* Third, we recommended that, “rather than reciting that nothing in the proposed order ‘shall amend or alter the Stipulated Discovery Confidentiality Order’ filed in” related district court litigation, any stipulated protective order entered by the Board should “apply only to the captioned proceedings.” *Id.* at 5.

Granting Entry of Amended Stipulated Protective Order

The Motion proposes an Amended Stipulated Protective Order that addresses adequately each of the Board’s previous concerns. First, variations of the term “party” are omitted in favor of definitions that provide further clarification, including the “narrowly defined term ‘Non-Joinder Party.’” Mot. 2; *see* Amended SPO ¶¶ 2–3. Second, the category of confidential information designated as PROTECTIVE ORDER MATERIAL—FED R. EVID 615 is removed “because this category is no longer necessary now that discovery has been completed.” Mot. 3; *see* Amended SPO ¶ 1. Third, the Amended Stipulated Protective Order does not include a “discussion of the Stipulated Discovery Confidentiality Order filed in the parallel district court litigation.” Mot. 3. *See generally* Amended SPO.

Regarding the parties’ proposed designation of confidential information as Board Only (Amended SPO ¶ 3), the parties are advised that when documents are designated as Board Only in the Board’s filing system,

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access is limited to the Board. Any agreed-upon disclosure to other entities shall be the responsibility of the filing party.

Because the Amended Stipulated Protective Order addresses our previous concerns, we determine that the Motion is in condition for allowance. Entry of a protective order is necessary because both parties seek to seal documents alleged to reflect confidential information. *See* Papers 65, 68, 69; *see* 37 C.F.R. § 42.54 (contemplating that a motion to seal shall include a proposed protective order). Accordingly, the Motion is *granted*.

It is

ORDERED that the Second Motion for Entry of Stipulated Protective Order is *granted* in each proceeding; and

FURTHER ORDERED that the Amended Proposed Stipulated Protective Order (Mot., App'x A) shall govern the disclosure of confidential information in this proceeding.

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