

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.
and MYLAN LABORATORIES LIMITED,
Petitioner,

v.

UCB PHARMA GMBH,
Patent Owner.

Case IPR2016-00510^{1,2} (Patent 6,858,650 B1)
Case IPR2016-00512 (Patent 7,384,980 B2)
Case IPR2016-00514 (Patent 7,855,230 B2)
Case IPR2016-00516 (Patent 8,338,478 B2)
Case IPR2016-00517 (Patent 7,985,772 B2)

Before KRISTINA M. KALAN, ROBERT A. POLLOCK, and
MICHELLE N. ANKENBRAND, *Administrative Patent Judges*.

ANKENBRAND, *Administrative Patent Judge*.

¹ Petitioners Alembic Pharmaceuticals Limited from IPR2016-01596, Torrent Pharmaceuticals Limited from IPR2016-01636, and Amerigen Pharmaceuticals Limited from IPR2016-01665 have been joined as Petitioners to this proceeding.

² We exercise our discretion to issue one order to be entered in all five cases. The parties are not authorized to use this style heading for subsequent papers without Board preapproval.

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ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

A conference was held on February 15, 2017, between counsel for the parties and Judges Kalan, Pollock, and Ankenbrand. We convened the conference to discuss Mylan Pharmaceuticals, Inc.’s and Mylan Laboratories Ltd.’s (collectively, “Petitioner”) request for authorization to file a motion to file supplemental information.

Prior to the conference, Patent Owner filed objections to Exhibits 1073, 1074, 1075, and 1076, which Petitioner submitted in support of its Reply. Paper 29, 1.³ Petitioner responded to the objections, explaining that the four exhibits are portions of deposition transcripts from co-pending litigation that the parties agreed would serve as the cross-examination testimony of Patent Owner’s four declarants in these proceedings. Paper 30, 1–2. Petitioner subsequently requested the conference with the Board. During the conference, Petitioner explained that it was seeking authorization to file the complete deposition transcripts that correspond to the previously filed deposition excerpts in Exhibits 1073, 1074, 1075, and 1076. Petitioner represented that it filed excerpted versions of the deposition transcripts to avoid potential confidentiality issues.

Patent Owner indicated that it did not oppose Petitioner’s request, subject to Patent Owner’s review of the full transcripts first to identify any

³ Unless otherwise noted, citations are to the papers filed in IPR2016-00510. Similar papers were filed in each of the above-captioned proceedings.

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confidentiality issues. Patent Owner stated that it also filed excerpts of deposition transcripts from the co-pending district court litigation as exhibits in these proceedings and requested the same authorization Petitioner requested (i.e., to file the complete deposition transcripts).

Petitioner did not oppose Patent Owner's request, subject to review of the full transcripts to identify any confidentiality issues. The parties represented that they would review the deposition transcripts prior to filing them to determine whether any contain confidential information. The parties also represented that, should any of the deposition transcripts contain confidential information, the parties will work together, without Board intervention, to submit a motion to seal and proposed protective order.

After considering the parties' representations, we authorized the parties to file the full deposition transcripts as exhibits in each of these proceedings. We further ordered the parties to file, in each proceeding, a joint document indicating how each full deposition transcript corresponds to the excerpts cited in the Response or Reply. For each full deposition transcript, the parties shall: (1) identify the name of the declarant or witness that is the subject of the deposition; (2) identify the pages of the Response or the Reply on which an excerpt of that deposition transcript is cited; and (3) correlate such excerpts to the newly submitted full deposition.

If the parties determine that any deposition transcript contains confidential information, the parties shall file a motion to seal, with a proposed protective order presented as an exhibit to the motion. We expect the parties to agree on the terms of the proposed protective order and

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encourage the parties to utilize the Board's default protective order. *See* Default Protective Order, Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, App. B (Aug. 14, 2012). If the parties choose to propose a protective order deviating from the default protective order, they should submit the proposed protective order jointly. A marked-up comparison of the proposed and default protective orders should be presented as an additional exhibit to the motion, so that differences can be understood readily.

Redactions to the deposition transcripts should be limited strictly to isolated passages consisting entirely of confidential information, and the thrust of the underlying argument or evidence must be clearly discernible from any redacted versions.

It is

ORDERED that Petitioner and Patent Owner are authorized to file the full deposition transcripts corresponding to the deposition excerpts cited in the Response and Reply as exhibits in each of these proceedings;

FURTHER ORDERED that Petitioner and Patent Owner shall file, in each proceeding, a joint document indicating how each full deposition transcript corresponds to the excerpts cited in the Response or Reply. For each full deposition transcript, the parties shall: (1) identify the name of the declarant or witness that is the subject of the deposition; (2) identify the pages of the Response or the Reply on which an excerpt of that deposition

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transcript is cited; and (3) correlate such excerpts to the newly submitted full deposition; and

FURTHER ORDERED that if the parties determine that any deposition transcript contains confidential information, the parties shall file a motion to seal, with a proposed protective order presented as an exhibit to the motion in accordance with the guidance provided in this order.

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