

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 Owner.

IPR2021-00816
Patent 9,220,631 B2

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

FRANKLIN, *Administrative Patent Judge*.

ORDER

Granting Joint Motion to Seal the Final Written Decision;
Preserving the Record Pending Appeal; and Extending the Deadline for
Filing a Motion to Expunge Sealed Documents
37 C.F.R. §§ 42.14, 42.54, 42.56

I. INTRODUCTION

As noted in our Order, Paper 115, on October 25, 2022, the Final Written Decision (“Decision,” Paper 113) in this proceeding was entered into the record as available to “Board and Parties Only” to provide the parties with an opportunity to meet and confer and jointly submit a proposed redacted version of the Decision for the public. The Decision refers to 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).

In accordance with our instruction, the parties have filed a joint motion to seal the Final Written Decision, Paper 117 (“Mot.”), along with a proposed redacted version of the Final Written Decision, Exhibit 1257. For the reasons explained below, we grant the joint motion.

II. DISCUSSION

“There is a strong public policy for making all information filed in a quasi-judicial administrative proceeding open to the public, especially in an *inter partes* review which determines the patentability of claims in an issued patent and therefore affects the rights of the public.” *Garmin Int’l v. Cuozzo Speed Techs., LLC*, IPR2012-00001, Paper 34, 1–2 (PTAB Mar. 14, 2013). A motion to seal may be granted for good cause. 37 C.F.R. § 42.54. The moving party or parties must show that there is good cause for the relief requested, including why the information is appropriate to be filed under

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seal. 37 C.F.R. §§ 42.20, 42.54; *see also Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 3–4 (PTAB Jan. 19, 2018) (informative) (discussing factors the Board may consider when deciding whether to grant a motion to seal documents asserted to contain confidential information).

In the motion, the parties assert that good cause exists for sealing portions of the Final Written Decision because those portions refer to confidential research and development information, along with confidential commercial and financial information, submitted previously by the parties in this proceeding. Mot. 2–5. As noted above, those referenced materials were previously sealed.

Accordingly, based on our consideration of the motion and proposed redactions to the Final Written Decision, we determine that the parties have shown good cause to seal the confidential version of the Final Written Decision.

The parties are advised that any papers or exhibits that are currently sealed in this case ordinarily would become public 45 days after final judgment. *See* Patent Trial and Appeal Board Consolidated Trial Practice Guide,¹ 21–22. Based on the circumstances involved here, including the timing of the joint motion, we preserve the entire record of this proceeding, including all confidential papers and exhibits as sealed documents, pending appeal.

¹ Patent Trial and Appeal Board Consolidated Trial Practice Guide (November 2019), available at <https://www.uspto.gov/sites/default/files/documents/tpgnov.pdf>.

Further, we extend the deadline for filing a motion to expunge documents under 37 C.F.R. § 42.56 to ten business days after final disposition of an appeal.

III. ORDER

In accordance with the foregoing, it is hereby:

ORDERED that the joint motion to seal the confidential version of the Final Written Decision, Paper 113, is *granted*;

FURTHER ORDERED that the jointly filed redacted version of the Final Written Decision, Exhibit 1257, shall be entered by the Board as available to the public;

FURTHER ORDERED that the record in this proceeding shall be preserved, including all confidential pleadings and exhibits as sealed documents, until ten business days after final disposition of an appeal; and

FURTHER ORDERED that the time for filing a motion to expunge documents under 37 C.F.R. § 42.56 is extended to ten business days after final disposition of an appeal.

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