

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HOPEWELL PHARMA VENTURES, INC.
Petitioner,

v.

MERCK SERONO S.A.,
Patent Owner.

IPR2023-00480 (Patent 7,713,947 B2)
IPR2023-00481 (Patent 8,377,903 B2)¹

Before ZHENYU YANG, ROBERT A. POLLOCK, and
TIMOTHY G. MAJORS, *Administrative Patent Judges*.

MAJORS, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
Granting Patent Owner's Motion to Expunge Exhibit 2050
37 C.F.R. §§ 42.5, 42.7

¹ This Order addresses issues common to both cases. The parties are not authorized to use this style heading for any subsequent papers.

I. DISCUSSION

On March 13, 2024, Patent Owner wrote to the Board requesting expungement of Exhibit 2050. Ex. 3001 (email dated March 13, 2024). According to Patent Owner, the as-filed version of Exhibit 2050 includes three paragraphs that comprise privileged information. *Id.* Patent Owner states that it inadvertently filed that version of the exhibit without redacting the three paragraphs in question. *Id.* Patent Owner asserts that the allegedly privileged information is not relevant to the issues in these proceedings before the Board. *Id.* Patent Owner proposes to file a substitute version of Exhibit 2050 that redacts the allegedly privileged information in the event the Board grants its request for expungement.

Patent Owner represents that it has conferred with Petitioner about the request for expungement described above, and represents that Petitioner does not oppose the request.

Under the circumstances, we will consider Petitioner's request (Ex. 3001) as being an authorized motion. And, we find that good cause exists to grant that motion, which finding is premised on (a) Patent Owner's unopposed representation that it inadvertently filed Exhibit 2050 in a form that includes the allegedly privileged information, and (b) Patent Owner's promise to file a substitute, redacted-version of Exhibit 2050 if the Board authorizes expungement of the current, as-filed version.

The as-filed version of Exhibit 2050 is, at present, accessible by the parties and the Board only, and is subject to a pending motion to seal based on the alleged confidential nature of information (e.g., drug development

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plans) in that exhibit. *See, e.g.*, Paper 19, 6–7.² We will decide that motion as appropriate and in due course considering, as applicable, the substituted version of Exhibit 2050 that Patent Owner will file pursuant to this Order.

II. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner’s request/motion (Ex. 3001) to expunge Exhibit 2050 is *granted*;

ORDERED that the version of Exhibit 2050 filed on December 21, 2023, in both IPR2023-00480 and IPR2023-00481 is expunged; and

FURTHER ORDERED that Patent Owner will, within five (5) days of this Order, file a substitute version of Exhibit 2050 consistent with the Discussion above.

² For convenience, we cite to the paper numbers from IPR2023-00480 and note that similar versions of those papers have been filed in IPR2023-00481.

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