

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC., DR. REDDY'S LABORATORIES,
INC., DR. REDDY'S LABORATORIES, LTD., SUN
PHARMACEUTICAL INDUSTRIES LTD., AND SUN
PHARMACEUTICAL INDUSTRIES, INC.,
Petitioner,

v.

NOVO NORDISK A/S,
Patent Owner.

IPR2023-00724¹
Patent 10,335,462 B2

Before JOHN G. NEW, SUSAN L. C. MITCHELL, and
ROBERT A. POLLOCK, *Administrative Patent Judges*.

MITCHELL, *Administrative Patent Judge*.

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

¹ IPR2024-00009 (Dr. Reddy's Laboratories) and IPR2024-00107 (Sun Pharmaceutical Industries) have been joined with this proceeding.

BACKGROUND

On August 19, 2024, Patent Owner requested a conference call to address the handling of confidential material during the upcoming hearing. A conference call was held at 1:00 PM (ET) on August 22, 2024. Brandon White and Jessica Kaiser were present for Petitioner, and Steven Baughman, Megan Raymond, and Joshua Reich were present for Patent Owner. Scott Border was present for Dr. Reddy's Laboratories. Judges Mitchell and Pollock were present on the call.

DISCUSSION

During the call, logistical details of when and how to present confidential information were discussed because the hearing will be open to the public. There are two areas in which confidential information will be relevant to arguments presented during the hearing: (1) Prior art status of WO421 and NCT773; and (2) Objective evidence of non-obviousness, including nexus and commercial success. We determined during the call that it is not practical to address both issues involving confidential issues at the same point in the hearing, such as at the end of the public portion of the hearing. The logical sequence of presentation of this evidence is to present any prior art status issues at the beginning of the hearing and any objective evidence of non-obviousness at the end of the hearing.

After consultation with Board Operations and having considered the discussion on the call, we have determined that it will be best to conduct the hearing as set forth below in the Order with two confidential portions of the hearing bracketing the presentation of the main argument that will be open to the public. We expect the non-public portions of the hearing to be self-contained. In other words, the order of presentation during those portions

will be Petitioner, Patent Owner, rebuttal by Petitioner if sought, and sur-rebuttal by Patent Owner if sought. We will confirm with the parties at the beginning of the hearing the expected allocation of the ninety minutes per side that the parties expect for at least the first confidential portion of the hearing involving the prior art status issues.

We have confirmed that the public portion of the hearing is both audio and video. We also confirmed with the parties during the call that anyone under the protective order may have access to the hearing link for the parties so that they may hear the confidential portions of the hearing as well as the public portions. We also understand that the parties will file both public and confidential sets of demonstratives, and will file appropriate motions to seal the confidential sets of demonstratives after the oral hearing, which is a procedure that is acceptable to the Board.

We file a public and a non-public transcript of the hearing. Before filing any publicly available transcript, we will provide the parties with an opportunity to confirm that there is no confidential information in the publicly available transcript.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, in the virtual hearing for IPR2023-00724, set for August 27, 2024, the hearing will open with an introductory public portion, during which the panel will explain that portions of the proceeding will be non-public, followed by a closed and confidential portion for discussion of the prior art status of WO421 and NCT773. At the conclusion of that portion, the hearing will reopen to the public for the majority of the argument during which the parties will present their main cases. At the end

of the public portion, the hearing will again enter a closed and confidential portion, during which secondary considerations of nonobviousness, such as nexus and commercial success, will be discussed, before termination of the hearing.

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