Paper No. _____
Filed: August 30, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIONTECH SE and PFIZER INC.
Petitioner

v.

MODERNATX, INC.
Patent Owner

Case IPR2023-01359
Patent No. 10,933,127

PETITIONER'S MOTION TO SEAL

Pursuant to 37 C.F.R. § 42.54, Petitioner hereby moves to seal certain portions of Exhibits 1105, 1159, 1161, and 1164, as well as portions of Petitioner's Reply that rely on Exhibits 1105, 1159, 1161, and 1164. Good cause exists for granting this motion because the documents identified above include information that Patent Owner Moderna has designated as confidential pursuant to the Modified Protective Order (Exhibit 2059).

I. Good Cause Exists for Sealing Certain Information Designated as Confidential

The *Office Patent Trial Practice Guide* provides that "the rules aim to strike a balance between the public's interest in maintaining a complete and understandable file history and the parties' interest in protecting truly sensitive information." 77 FED. REG. 48756, 48760 (Aug. 14, 2012). Further, those rules "identify confidential information in a manner consistent with Federal Rule of Civil Procedure 26(c)(1)(G), which provides for protective orders for trade secret or other confidential research, development, or commercial information." *Id.* (citing 37 C.F.R. § 42.54).

In accordance with the rules and procedures, Petitioner moves to seal certain portions of Exhibit 1105, which is the deposition transcript of Philip Krause, M.D.; Exhibit 1159, which is the Reply Declaration of Daniel Griffin; Exhibit 1161, which is the Reply Declaration of James Moon; Exhibit 1164, which is the Declaration of L. Ross Pierce; and Petitioner's Reply. Exhibits 1105, 1159, 1161,

1164 include information Moderna has designated as PROTECTIVE ORDER MATERIAL. As such, the referenced exhibits and portions of Petitioner's Reply that rely on those exhibits are designated as PROTECTIVE ORDER MATERIAL and good cause exists to seal Exhibits 1105, 1159, 1161, 1164, and and portions of Petitioner's Reply that rely on those exhibits. Petitioner has provided herewith redacted versions of Exhibits 1105, 1159, 1161, 1164, and Petitioner's Reply.

II. Conclusion

For the reasons set forth above, Petitioner respectfully requests that Exhibits 1105, 1159, 1161, 1164 and portions of Petitioner's Reply that rely on those exhibits be placed under seal.

Respectfully submitted,

Dated: August 30, 2024

By: /Naveen Modi/
Naveen Modi (Reg. No. 46,224)
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2024, a copy of the foregoing Motion to Seal was served by electronic means upon the following:

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Respectfully submitted,

Dated: August 30, 2024

By: /Naveen Modi/
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