

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCK SHARP & DOHME LLC,
Petitioner,

v.

THE JOHNS HOPKINS UNIVERSITY,
Patent Owner.

IPR2024-00240
Patent 11,591,393 B2

Before DEBORAH KATZ, SHERIDAN K. SNEDDEN, and
DEVON ZASTROW NEWMAN, *Administrative Patent Judges*.

KATZ, *Administrative Patent Judge*.

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

Patent Owner and Petitioner have filed several motions to seal. (*See* Papers 37, 60, 68, and 73.) Specifically, the parties move to seal Exhibits 1116, 1118, 1119, 1137, 1150, 1151, 1157, 2167–2174, 2181, 2182, 2187, 2188, 2191, 2404, 2410,¹ and 2411, which provide Petitioner’s reportedly highly confidential information related to long felt need and commercial success. The parties also move to seal Patent Owner’s Response, Petitioner’s Reply, Patent Owner Sur-Reply, and oral argument demonstratives because they cite these exhibits. (*See id.*) The motions to seal are uncontested. (*See* Paper 37, 1; Paper 60, 1; Paper 68, 1; and Paper 73, 1.)

The Board recognizes “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 (PTAB Mar. 14, 2013), 1–2. Except as otherwise ordered by the Board, the record of an *inter partes* review shall be made available to the public. 35 U.S.C. § 316(a)(1); 37 C.F.R. § 42.14.

The moving party bears the burden of showing that the relief requested should be granted. 37 C.F.R. § 42.20(c). The standard for granting a motion to seal is “for good cause.” 37 C.F.R. § 42.54(a).

The parties contend that good cause exists to seal the exhibits, papers, and demonstratives that are the subjects of its four motions because Petitioner asserts they are related to Petitioner’s proprietary drug Keytruda® and that they disclosure of the information contained in the documents

¹ Exhibit 2410 was expunged. (*See* Paper 69.)

would cause competitive harm by revealing confidential research, technical, and commercial information. (*See* Paper 37, 4–6; Paper 60, 3–6; Paper 68, 3–4.)

Having considered the parties’ motions, we are persuaded there is good cause to seal the materials in question. The exhibits appear to include research proposals and data, as well as testimony about these exhibits, which could reveal confidential research, technical, and commercial information. We observe further that Patent Owner has filed redacted versions of the exhibits and papers for which it seeks only partial sealing.

It is

ORDERED that the confidential versions of Exhibits 1116, 1118, 1119, 1137, 1150, 1151, 1157, 2167–2174, 2181, 2182, 2187, 2188, 2191, 2404, and 2411 and the confidential versions of Patent Owner’s Response, Petitioner’s Reply, Patent Owner Sur-Reply, and oral argument demonstratives are sealed; and

further ORDERED that the unredacted version of the transcript of the oral argument held on March 31, 2025 (Paper 86), be sealed.

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