

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.,
SUN PHARMACEUTICAL INDUSTRIES, INC., and APOTEX 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*.

DECISION

Petitioner's Motion to Expunge Confidential Information
37 C.F.R. § 42.56

Unopposed Motion for Entry of the Default Protective Order and
Motions to Seal
37 C.F.R. §§ 42.1 and 42.54

¹ IPR2024-00009 (Dr. Reddy's Laboratories), IPR2024-00107 (Sun Pharmaceutical Industries), and IPR2024-00631 (Apotex Inc.) have been joined with this proceeding.

I. Motion to Expunge

Apotex Inc. (“Petitioner”) moves to expunge certain confidential papers and exhibits in IPR2024-00631, as well as in IPR2023-00724, that contain Petitioner’s confidential business information. Paper 117, 1–2.² Petitioner represents that Novo Nordisk A/S (“Patent Owner”) does not oppose this motion. *Id.* at 1.

Petitioner provides the following list of documents in IPR2024-00631 for which expungement is requested.

Document	Description
Paper No. 5	Motion for Joinder
Ex. 1507	Declaration of Robert Shapiro
Paper No. 9	Patent Owner’s Opposition to Petitioner’s Motion for Joinder
Paper No. 10	Apotex’s Reply to Patent Owner’s Opposition to Petitioner’s Motion for Joinder
Paper No. 15	Patent Owner’s Preliminary Response (“POPR”)
Paper No. 17	Apotex’s Reply to Patent Owner’s Preliminary Response
Ex. 2010	June 10, 2024 Email from Counsel for Petitioner re: IPR2024-00631
Paper No. 21	Patent Owner’s Reply to Petitioner’s Reply to Patent Owner’s Preliminary Response

Paper 117, 1–2. Petitioner also asks that Paper No. 100 in IPR2023-00724, Patent Owner’s Request for Director Review, also be expunged because it contains Petitioner’s confidential business information. *Id.* at 2.

Petitioner further states:

² Unless otherwise noted, all Paper and Exhibit numbers are from IPR2023-00724.

The confidential information originates in the two confidential exhibits (IPR2024-00631, Exs. 1507, 2010), which are entirely confidential. The subsequent confidential papers (IPR2024-00631, Paper Nos. 5, 9, 10, 15, 17, 21; IPR2023-00724, Paper No. 100) rely on these exhibits and the prior papers. The parties have already filed public, redacted versions of each of the confidential papers.

Paper 117, 3–4.

Petitioner asserts that good cause exists for expungement of these papers and exhibits because these documents describe Petitioner’s “confidential drug development and regulatory approval strategies” that, if disclosed, “would likely cause competitive business harm to [Petitioner].”

Paper 117, 5. Petitioner also asserts that the public has sufficient information in the remaining record “to understand the nature of the confidential information without access to it.” *Id.* Petitioner notes:

The public has sufficient information to understand both the confidential papers and exhibits from (1) the Institution Decision, which is entirely non-confidential³ and (2) the public, non-confidential versions of the confidential papers.

Id. at 6. Petitioner concludes that its “interest in expunging the confidential information thus outweighs the public’s interest in maintaining a complete and understandable history of this *inter partes* review proceeding.” *Id.* at 7.

After considering the Motion to Expunge, we grant Petitioner’s Motions to Expunge. We find that the public has sufficient information from the public Institution Decision as well as the public, redacted versions of the confidential papers to understand sufficiently the record in this case and in IPR2024-00631.

³ Petitioner asserts that the parties identified no confidential information in the Institution Decision. Paper 117, 3.

II. Motions to Seal

Petitioner filed three motions to seal in IPR2024-00631 that involve the documents that Petitioner has asked us to expunge. *See* Papers 3, 11, 14, 19, 20. In Petitioner's first Motion to Seal, it asks for the entry of the default Protective Order and the sealing of its Motion for Joinder (Paper 5) and the Declaration of Robert Shapiro (Ex. 1057). IPR2024-00631, Paper 3. In Petitioner's second Motion to Seal, it asks us to seal Patent Owner's Opposition to Petitioner's Motion for Joinder, Paper 9, and Petitioner's Reply to the Patent Owner's Opposition to Petitioner's Motion for Joinder, Paper 10. IPR2024-00631, Paper 11. In Petitioner's third Motion to Seal, it asks us to seal Patent Owner's Preliminary Response (Paper 15), Petitioner's Reply to Patent Owner's Preliminary Response (Paper 17), and Exhibit 2010.

Patent Owner filed two motions to seal in IPR2024-00631 that involve the documents that Petitioner has asked us to expunge. The first motion to seal, Patent Owner asks us to seal its Preliminary Response (Paper 14), and in its the second motion to seal, Patent Owner asks us to seal its Reply to Petitioner's Reply to Patent Owner's Preliminary Response (Paper 20).

Because all of the documents that the parties have asked us to seal involve documents that we are expunging here, we need not address these motions to seal. Therefore, we dismiss these motions to seal as moot.

IV. ORDER

Accordingly, it is hereby:

ORDERED that Patent Owner's Motion to Expunge is *granted*;

FURTHER ORDERED that the Institution Decision in IPR2024-00631, Paper 22, be made public;

FURTHER ORDERED that the documents in the table below be expunged from the record in IPR2024-00631;

Document	Description
Paper No. 5	Motion for Joinder
Ex. 1507	Declaration of Robert Shapiro
Paper No. 9	Patent Owner's Opposition to Petitioner's Motion for Joinder
Paper No. 10	Apotex's Reply to Patent Owner's Opposition to Petitioner's Motion for Joinder
Paper No. 15	Patent Owner's Preliminary Response ("POPR")
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Ex. 2010	June 10, 2024 Email from Counsel for Petitioner re: IPR2024-00631
Paper No. 21	Patent Owner's Reply to Petitioner's Reply to Patent Owner's Preliminary Response

FURTHER ORDERED that Paper No. 100 in IPR2023-00724, Patent Owner's Request for Director Review, be expunged; and

FURTHER ORDERED that Petitioner and Patent Owner's Motions to Seal are dismissed as moot.

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