

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REGENX SCIENCE, INC.,
Petitioner,

v.

NEXTGEN BIOLOGICS, INC.,
Patent Owner.

Case IPR2025-00620
Case IPR2025-00621

**MOTION TO FILE CONFIDENTIAL DOCUMENTS UNDER
SEAL PURSUANT TO 37 C.F.R. §§ 42.14 AND 42.54 AND ENTER A
DEFAULT PROTECTIVE ORDER**

I. INTRODUCTION

Pursuant to 35 U.S.C. § 316(a)(1) and 37 C.F.R. §§ 42.14 and 42.54, Petitioner RegenX Science, Inc. (“RegenX” or “Petitioner”) moves to seal Exs. 1065-1066, 1077-1080 along with portions of its Opposition to Patent Owner’s Request for Discretionary Denial (“Opposition”) and the Declaration of Elisabeth Corson (Ex.1087) that discuss these exhibits. Good cause exists to seal these exhibits and redact portions of the Opposition that discuss their contents because they include confidential business information of the Patent Owner, Petitioner, and third-parties.

Petitioner also respectfully requests entry of the Default Protective Order. The parties have met and conferred regarding the motion to seal and entry of the Default Protective Order, as required by 37 C.F.R. § 42.54(a).

Petitioner conferred with Patent Owner NeXtGen Biologics, Inc. (“Patent Owner”) and Patent Owner indicated it will not oppose this motion or entry of the PTAB’s Default Protective Order.

II. REASON FOR SEALING

“A party intending a document or thing to be sealed shall file a motion to seal concurrent with the filing of the document or thing to be sealed. The document or thing shall be provisionally sealed on receipt of the motion and remain so pending the outcome of the decision on the motion.” 37 C.F.R. § 42.14. The Consolidated Trial Practice Guide (“TPG”) explains 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.” TPG at 19. As the TPG states, “[t]he 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 determining whether to grant a Motion to Seal, the Board must find “good cause.” 37 C.F.R. § 42.54(a). Good cause for sealing material can be established by demonstrating that the balance of the following considerations favors sealing the material: whether (1) the information sought to be sealed is truly confidential, (2) a concrete harm would result upon public disclosure, (3) there exists a genuine need to rely in the trial on the specific information sought to be sealed, and (4), on balance, an interest in maintaining confidentiality outweighs the strong public interest in having an open record. *See Argentum Pharms. LLC v. Alcon Research, Ltd.*, IPR2017-01053, Paper 27 at 4 (P.T.A.B. January 19, 2018) (informative).

The documents that Petitioner seeks to file under seal each contain confidential business information of the Patent Owner, Petitioner, or third parties and the balance of the *Argentum* factors sealing.

A. EACH SEALED EXHIBIT CONTAINS CONFIDENTIAL INFORMATION

The information Patent Owner seeks to seal in Exhibits 1065-66 and 1077-80 is “truly confidential.” *See* Fed. R. Civ. P. 26(c)(1)(G). Exhibits 1065, 1066, and 1077 are agreements to which Petitioner is a party (the “License Agreements”), and Exhibits 1078–80 are correspondence relating to the contract parties’ rights and obligations under those agreements. Each exhibit contains non-public contractual terms or business communications, including confidential commercial arrangements, proprietary rights, and the contract parties’ respective interpretations of their obligations and performance under the License Agreements.

B. Public Disclosure Would Result In Concrete Harm to Patent Owner, Petitioner, and Non-Parties

Petitioner would suffer several concrete harms from the public disclosure of these Exhibits. These exhibits detail Petitioner’s confidential business strategies, commercialization strategy, and commercial and financial provisions, including a confidential sales information, licensing fees and payments, and other confidential business information. Accordingly, public access to this information risks unfair competitive and commercial disadvantage to Petitioner.

C. There is a Genuine Need for the Documents in this Proceeding

There exists a genuine need to rely on these Exhibits to resolve Patent Owner’s Request for Discretionary Denial. Specifically, these issues are pertinent to the disputed issue of whether settled expectations exist regarding U.S. Patent Nos.

10,617,790 and 11,660,376 under the License Agreements. This confidential information is not available from any non-confidential sources and supports Petitioner's argument that no settled expectations exist.

D. Maintaining Confidentiality Outweighs the Public Interest in an Open Record

Although the public has an interest in the Patent Office maintaining a complete and comprehensive file history, the public interest would not be harmed by sealing these exhibits and portions of the Opposition that discuss their contents. The need for confidentiality outweighs any risk of such harm. The contents of these exhibits concern the closely held business affairs of Patent Owner, Petitioner, and non-parties. In contrast, sealing these Exhibits deprives the public of only the confidential and granular business and dealings of Patent Owner, Petitioner, and a non-party that are routinely maintained confidential in inter partes review proceedings and district court litigation. For example, the Board has previously held that confidential information in a license, like the one submitted here, should remain under seal. *See, e.g., Westinghouse Air Brake Technologies Corporation v. Siemens Mobility, Inc.*, IPR2017-01669, Paper 60 (P.T.A.B. January 8, 2019). On balance, the preceding factors weigh in favor of sealing.

III. PROTECTIVE ORDER

Concurrently with the present motion, RegenX filed an unopposed Motion for Protective Order requesting entry of the Board's default protective order, Ex.1094.

IV. CERTIFICATION

Pursuant to 37 CFR § 42.54, Patent Owner certifies that it has conferred with Petitioner regarding this motion to seal. Petitioner does not object to the motion.

DATED: July 14, 2025

Respectfully submitted,

By /Matthew Traupman/
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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(a) and (d), the undersigned hereby certify that the foregoing Petitioner's Opposition to Patent Owner's Request for Discretionary Denial of Institution complies with the type-volume limitation of 37 C.F.R. § 42.24(a)(1)(i) and (b)(1)(i) permitting a petition of up to 14,000 words because, exclusive of the exempted portions, it contains 885 words as counted by the word processing program used to prepare the paper.

Date: July 14, 2025

Respectfully submitted,
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CERTIFICATE OF SERVICE

In accordance with 37 C.F.R. §§ 42.6(e) and 42.105, I hereby certify that true and correct copies of this Motion and Exhibit 1094 were served on July 14, 2025 via electronic mail on Patent Owner at:

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CSKroon@duanemorris.com

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DATED: July 14, 2025

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