

IPR2025-01593
Patent 10,278,961

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BONERGE LIFESCIENCE (HUNAN) CO., LTD.,
Petitioner,

v.

NANJING NUTRABUILDING BIO-TECH CO., LTD.,
Patent Owner.

IPR2025-01593
Patent 10,278,961

**PATENT OWNER'S MOTION TO SEAL SUBMITTED IN CONNECTION
WITH RESPONSE TO PETITION**

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I. INTRODUCTION

Pursuant to 37 C.F.R. §§ 42.14 and 42.54, Patent Owner Nanjing Nutrabuilding Bio-Tech Co., Ltd. (“Patent Owner” or “NNB”) respectfully submits this Motion to Seal and requests that the confidential version(s) of the following documents: (1) Exhibit 2126, (2) Exhibit 2138, (3) Exhibit 2140, (4) Exhibit 2143, (5) Exhibit 2144, (5) Exhibit 2173, (6) Exhibit 2178, (7) Exhibit 2179, (8) Exhibit 2180, and (9) Exhibit 2181, be sealed under 37 C.F.R. §§ 42.14 and 42.54.

Patent Owner also respectfully requests entry of the Modified Agreed Protective Order (Exhibit 2110), per the Motion for Entry of Protective Order (Paper 14), filed on May 4, 2026. Patent Owner’s counsel contacted Petitioner’s counsel on July 6, 2026 via electronic mail referencing the exhibits sought to be sealed and also emailed copies of redacted versions of the exhibits pertaining to Petitioner or a third party represented by Petitioner’s counsel in the parallel litigation. As of the time of filing, Patent Owner’s counsel has not received any response to the emails. In an abundance of caution, Patent Owner assumes that Petitioner desire to have Petitioner’s and the third party’s confidential information protected from public disclosure, and thus, Patent Owner proceeds accordingly.

II. GOVERNING RULES AND PTAB GUIDANCE

Documents filed in an *inter partes* review are generally available to the public. 35 U.S.C. § 316(a)(1). Confidential documents accompanied by a

concurrently filed motion to seal may be protected from public disclosure via a motion to seal, which has the effect of sealing the information at issue until resolution of the motion. The Board identifies 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.” Patent Trial and Appeal Board Consolidated Trial Practice Guide¹ (“TPG”), November 2019, § I.E.2. The Board has adopted these rules 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.” *Id.* at § I.E. In determining whether to grant a Motion to Seal, the Board must find “good cause ... to protect a party or person from disclosing confidential information.” 37 C.F.R. § 42.54(a).

III. IDENTIFICATION OF CONFIDENTIAL INFORMATION

Based on the rules and procedures set forth in the TPG, Patent Owner seeks to prevent the disclosure of information is believed to be highly confidential. As to its own documents (Exhibits 2138, 2143, 2144, 2178, 2179, 2180, 2181), Patent Owner confirms the presence of a substantial amount of financial information, customer information, and other sensitive business information that is traditionally maintained as confidential under Rule 26. As to the documents that contain

¹ Available at <https://www.uspto.gov/patents/ptab/trial-practice-guide>.

Petitioner's (or a third party's) financial information, business communications, and deposition testimony about the same (Exhibits 2126, 2140, 2173, 2181), Patent Owner firmly believes such matter is also confidential and should be sealed.

It should be noted that the documents of Petitioner and the third party were designated as HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY pursuant to a Protective Order in the parallel litigation.

The following documents are sought to be sealed:

1. Exhibit 2126, Transcript of the Deposition of Matthew Peterson, February 26, 2026;
2. Exhibit 2138, a Portable Document Format ("PDF") version of a spreadsheet containing Patent Owner's revenues, costs, and profits by product;
3. Exhibit 2140, Petitioner's invoices and purchase orders;
4. Exhibit 2143, a Portable Document Format ("PDF") version of a spreadsheet containing Patent Owner's sales and customer information for dihydroberberine products;
5. Exhibit 2144, a Portable Document Format ("PDF") version of a spreadsheet containing Patent Owner's income statement showing revenues, costs, and profits since 2019;
6. Exhibit 2173, Petitioner's electronic communications with a third party regarding the bioavailability of dihydroberberine;
7. Exhibit 2178, a native Microsoft Excel version of Exhibit 2138;
8. Exhibit 2179, a native Microsoft Excel version of Exhibit 2143;
9. Exhibit 2180, a native Microsoft Excel version of Exhibit 2144; and
10. Exhibit 2181, Declaration of Patent Owner's Commercial Success

Expert, Stephen A. Holzen, July 5, 2026.

A. Transcript of the Deposition of Matthew Peterson (Exh. 2126)

Portions of the Deposition Testimony of Matthew Peterson contain information that Petitioner's counsel designated as "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY PROTECTIVE ORDER MATERIAL" as containing the commercially sensitive business information of Petitioner and a third party. Some of the testimony is about the contents of documents marked "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY" by Petitioner's counsel. The information sought to be sealed, based on Petitioner's counsel's representations, has not been published or otherwise made public.

B. Patent Owner's Financial Disclosures Containing Revenues, Costs, and Profits by Product (Exhs. 2138 and 2178)

Portions of Patent Owner's financial disclosures containing its revenues, costs, and profits contain information that Patent Owner designated as "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY PROTECTIVE ORDER MATERIAL" as containing the commercially sensitive business and financial information of Patent Owner. The information sought to be sealed, based on Patent Owner's own representations, has not been published or otherwise made public.

C. Petitioner's Invoices and Purchase Orders (Ex. 2140)

Portions of Petitioner's invoices and purchase orders contain information that Petitioner designated as "HIGHLY CONFIDENTIAL ATTORNEYS' EYES

ONLY PROTECTIVE ORDER MATERIAL” or “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” as containing the commercially sensitive business and financial information of Petitioner. The information sought to be sealed, based on Petitioner’s own representations and confidentiality designations, implies they have not been published or otherwise made public.

D. Patent Owner’s Sales and Customer Information for Dihydroberberine Products (Exhs. 2143 and 2179)

Portions of Patent Owner’s sales and customer information for dihydroberberine products contain information that Patent Owner designated as “HIGHLY CONFIDENTIAL ATTORNEYS’ EYES ONLY PROTECTIVE ORDER MATERIAL” as containing the commercially sensitive business and financial information of Patent Owner. The information sought to be sealed, based on Patent Owner’s own representations, has not been published or otherwise made public.

E. Patent Owner’s Income Statement Showing Revenues, Costs, and Profits Since 2019 (Exhs. 2144 and 2180)

Portions of Patent Owner’s income statement showing revenues, costs, and profits since 2019 contain information that Patent Owner designated as “HIGHLY CONFIDENTIAL ATTORNEYS’ EYES ONLY PROTECTIVE ORDER MATERIAL” as containing the commercially sensitive business and financial information of Patent Owner. The information sought to be sealed, based on Patent Owner’s own representations, has not been published or otherwise made public.

F. Petitioner's Electronic Communication with a Third Party Regarding the Bioavailability of Dihydroberberine (Exh. 2173)

Petitioner's electronic communication with a third party regarding the bioavailability of dihydroberberine contain information that Petitioner designated as "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY PROTECTIVE ORDER MATERIAL" as containing the commercially sensitive business information of Petitioner and a third party. The information sought to be sealed, based on Petitioner's own representations and confidentiality designations, implies they have not been published or otherwise made public. Pages 4-21 of the Exhibit constitute a previously published article and need not be sealed.

G. Declaration of Patent Owner's Commercial Success Expert, Stephen A. Holzen (Exh. 2181)

Portions of the Declaration of Stephen A. Holzen, Patent Owner's Commercial Success Expert, contain information that Patent Owner designated as "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY PROTECTIVE ORDER MATERIAL" or "HIGHLY CONFIDENTIAL – ATTORNEY'S EYES ONLY" as containing the commercially sensitive business information of Patent Owner, Petitioner, and a third party. Additionally, certain items of financial and related information of both Petitioner and the same third party referenced above were included in portions of the Declaration. The information sought to be sealed, based on Patent Owner's and Petitioner's own representations, has not been published or

otherwise made public.

IV. GOOD CAUSE EXISTS FOR GRANTING PATENT OWNER'S MOTION TO SEAL

Public disclosure of the confidential information contained in Exhibits 2126, 2138, 2140, 2143, 2144, 2173, 2178, 2179, 2180, and 2181 would harm Patent Owner, Petitioner, and a third party and potentially violate confidentiality provisions by publicly disclosing Patent Owner's, Petitioner's, and a third party's commercially sensitive business and financial information. It may also violate the Protective Order in place in the parallel litigation. The public interest will not be harmed by granting this Motion to Seal as "CONFIDENTIAL PROTECTIVE ORDER MATERIAL" or "HIGHLY CONFIDENTIAL ATTORNEYS' EYES ONLY PROTECTIVE ORDER MATERIAL," as granting this Motion to Seal would achieve "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, § I.E. Furthermore, Patent Owner is concurrently filing public, redacted versions of these Exhibits as reflected in the table below, because confidentiality is alleged as to some but not all of the information in these documents.

Confidential Version(s)	Public, Redacted Version
Exh. 2126	Exh. 2148
Exhs. 2138, 2178	Exh. 2149
Exh. 2140	Exh. 2150
Exhs. 2143, 2179	Exh. 2151
Exhs. 2144, 2180	Exh. 2152

Exh. 2173	Exh. 2177
Exh. 2181	Exh. 2182

Therefore, in accordance with 37 C.F.R. § 42.54(a), good cause exists for granting this Motion to Seal.

V. RELIEF REQUESTED

For the reasons stated above, Patent Owner requests that the Board enter the Modified Agreed Protective Order in this proceeding, and seal the unredacted versions of (1) Exhibit 2126, (2) Exhibit 2138, (3) Exhibit 2140, (4) Exhibit 2143, (5) Exhibit 2144, (5) Exhibit 2173, (6) Exhibit 2178, (7) Exhibit 2179, (8) Exhibit 2180, and (9) Exhibit 2181 under the terms of the Modified Agreed Protective Order.

Date: July 7, 2026

Respectfully submitted,

/s/ Mark D. Nielsen

Mark D. Nielsen

Reg. No. 52,068

Counsel for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that a copy of this **PATENT OWNER'S MOTION TO SEAL SUBMITTED IN CONNECTION WITH RESPONSE TO PETITION** has been served upon the following litigation counsel via electronic means:

John Handy, RIMON PC (john.handy@rimonlaw.com)
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Respectfully submitted,

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