

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

TAKEDA PHARMACEUTICAL CO., LTD.,	)	Case No.: 13-CV-02420-LHK
TAKEDA PHARMACEUTICALS U.S.A.,	)	
INC., AND TAKEDA	)	<b>ORDER GRANTING IN PART AND</b>
PHARMACEUTICALS AMERICA, INC.,	)	<b>DENYING IN PART ADMINISTRATIVE</b>
	)	<b>MOTIONS TO SEAL</b>
Plaintiffs,	)	
	)	
v.	)	
	)	
TWI PHARMACEUTICALS, INC.,	)	
	)	
Defendant.	)	

Before the Court are the parties’ administrative sealing motions (ECF Nos. 141, 148, 170, 171),<sup>1</sup> which were filed in connection with TWi’s summary judgment motion. According to the standards set forth in *Kamakana v City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006), *In re Electronic Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008), and *Apple, Inc. v. Samsung Electronics. Co.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013), the Court reviews the parties’ sealing motions under the “compelling reasons” standard.

With this standard in mind, the Court rules as follows:

<sup>1</sup> Four days after the April 9, 2015 hearing on the parties’ motions for summary judgment, TWi filed amended motions to seal, ECF Nos. 170, 171, which replaced the sealing motions TWi had already filed, ECF Nos. 142, 154. Accordingly, the Court DENIES as moot TWi’s previously filed sealing motions. ECF Nos. 142, 154.

<u>Motion to Seal</u>	<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Ruling</u>
141	141-3	Takahashi Decl. Ex. 3: Expert Report of Dr. Brian Fennerty	DENIED WITHOUT PREJUDICE because the request is not “narrowly tailored” and TWi did not file a supporting declaration. Civ. L. R. 79-5(b).
148	148-3	Takeda’s Opposition to TWi’s Motion for Summary Judgment	DENIED WITH PREJUDICE as to the proposed redactions at pages 21:23-26, 24:11-12 (heading), and 24:19-25:12 (entire paragraph) because the briefing is related to the doctrine of equivalents is not sealable; otherwise GRANTED.
148	148-5	Takahashi Decl. Ex. 44: Annotated Labelling for TWi’s proposed drug product	GRANTED.
148	148-6	Takahashi Decl. Ex. 49: Expert Report of Dr. William N. Charman	DENIED WITHOUT PREJUDICE because the request is not “narrowly tailored.” Civ. L. R. 79-5(b). TWi should identify which specific portions of the report it seeks to seal.
148	148-7	Takahashi Decl. Ex. 50: Reply Expert Report of Dr. William N. Charman	DENIED WITHOUT PREJUDICE because the request is not “narrowly tailored.” Civ. L. R. 79-5(b). TWi should identify which specific portions of the report it seeks to seal.
148	148-8	Takahashi Decl. Ex. 52: Section 2.3.P of TWi’s Amended ANDA	GRANTED.
148	148-9	Takahashi Decl. Ex. 53: Section 2.3.P.2 of TWi’s Amended ANDA	GRANTED.
148	148-10	Takahashi Decl. Ex. 54: Declaration of Dr. William N. Charman	DENIED WITHOUT PREJUDICE because the request is not “narrowly tailored.” Civ. L. R. 79-5(b). TWi should identify which specific portions of the declaration it seeks to seal.
170	170-2	TWi’s Motion for Summary Judgment	DENIED WITH PREJUDICE as to the proposed redactions at pages 24:6-25:1 & n.8 because the briefing is related to the doctrine of equivalents is not sealable; otherwise GRANTED.
170	142-6	Mizerk Decl. Ex T: Expert Report of Dr. Robert A. Bellantone Regarding Validity of the ’187 Patent	GRANTED.

<u>Motion to Seal</u>	<u>ECF No.</u>	<u>Document to be Sealed</u>	<u>Ruling</u>
170	142-8	Mizerk Decl. Ex HH: Deposition of Dr. William N. Charman	DENIED WITHOUT PREJUDICE because the request is not “narrowly tailored.” Civ. L. R. 79-5(b). TWi should identify which specific portions of the deposition it seeks to seal.
170	142-10	Mizerk Decl. Ex JJ: TWi’s ANDA letter to the FDA	GRANTED.
170	142-12	Mizerk Decl. Ex KK: “Advantar Transmittal Memorandum for Revised Technical Report TKU-C0001-RTR0001.01	GRANTED.
170	142-14	Mizerk Decl. Ex LL: TWi’s ANDA	GRANTED.
170	142-16	Mizerk Decl. Ex MM: Drug Product Release Test	GRANTED.
170	142-18	Mizerk Decl. Ex NN: Expert Report of Dr. William N. Charman on Infringement	DENIED WITH PREJUDICE as to the proposed redactions at paragraphs 135, 140-41, 161, 165-66, 172, 179, and 185 because these paragraphs quote only from the claim language or the Court’s claim construction order; otherwise GRANTED.
170	142-20	Mizerk Decl. Ex OO: Drug Product Release Test	GRANTED.
170	142-22 142-23 142-24	Mizerk Decl. Ex ZZ: Rebuttal Expert Report of Dr. Edmund J. Elder, Jr., on Non-Infringement	DENIED WITH PREJUDICE as to the proposed redactions at paragraphs 17 and 18 because these paragraphs quote only from the claim language or the Court’s claim construction order; otherwise GRANTED.
171	171-2	Reply in Support of TWi’s Motion for Summary Judgment	DENIED WITH PREJUDICE as to the proposed redactions at page 15:1-22 because the briefing is related to the doctrine of equivalents is not sealable; otherwise GRANTED.

The parties must file any renewed motions to seal consistent with this Order within seven (7) days. The Court also GRANTS TWi’s motion to remove an incorrectly filed document. ECF No. 174.

**IT IS SO ORDERED.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: April 23, 2015

  
\_\_\_\_\_  
LUCY H. KOH  
United States District Judge