PUBLIC

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
Impax Laboratories, Inc., a corporation.	)	DOCKET NO. 9373

MOTION OF IMPAX LABORATORIES, INC. FOR *IN CAMERA* TREATMENT OF DESIGNATED TRIAL EXHIBITS

Pursuant to Rule 3.45 of the Federal Trade Commission's Rules of Practice, 16 C.F.R. § 3.45(b), Impax Laboratories, Inc. ("Impax") respectfully moves for *in camera* treatment of competitively sensitive and/or confidential information in certain documents that Impax and Complaint Counsel may offer into evidence in this matter (together, the "Confidential Documents"). The Confidential Documents, as well as the specific portions for which Impax seeks in camera treatment (the "Confidential Information") are described in Appendix A.

I. Introduction

The portions of the Confidential Documents for which Impax seeks *in camera* treatment contain competitively sensitive and proprietary information or are covered by Impax's contractual confidentiality obligations to third parties. Impax depends upon the continued protection of this information from public disclosure to compete effectively, maintain fiduciary duties to its shareholders, and fulfill its contractual commitments regarding confidentiality. The disclosure of the Confidential Information would unfairly handicap Impax in future negotiations with potential partners. Disclosure would also afford Impax's competitors an unfair advantage in

competing with Impax's current and future branded and generic pharmaceutical products. Finally, revealing this information could cause a chilling effect on ostensibly confidential pharmaceutical development efforts and pharmaceutical collaborations.

Impax has not publicly released the Confidential Information in the normal course of business, and has undertaken to maintain its confidentiality.

For these reasons, Impax requests *in camera* treatment for the Confidential Information identified in Appendix A. In support of this motion, Impax relies on the concurrently filed Declaration of Farschad Farzan.

II. Information for Which *In Camera* Treatment is Sought

As reflected in Appendix A, Impax requests *in camera* treatment, in whole or in part, for the following categories of documents:

1. **Impax internal documents** containing competitively sensitive and/or proprietary information. Confidential Information in this category includes:
    a. **Financial and sales projections for future years and pipeline products**;
    b. **Customer-specific pricing discussions**;
    c. **Information regarding potential mergers, acquisitions, and investments**;
    d. **Information regarding specific research and formulation efforts for products still in development**. Included in this category are numerous documents that discuss in detail Impax's research, formulation, and development work for the product candidate IPX203, a pipeline branded product still in development.

2. **Internal Documents of Endo Pharmaceuticals** containing competitively sensitive and/or proprietary Impax information that Impax shared in the context of confidential due diligence efforts regarding what ultimately became the June 7, 2010 Distribution and Co-Promotion Agreement between the parties (the "DCA"). The Confidential Information in these documents relates to Impax's research, formulation, and development work for Impax's pipeline product candidate IPX203. These documents also include sales and revenue projections for future years that Endo developed based on confidential commercial forecasts Impax provided to Endo in connection with the DCA diligence.
3. **Third party data** purchased from third party data vendors subject to confidentiality obligations.

III. Legal Standard

Material is afforded *in camera* treatment when its "public disclosure will likely result in a clearly defined, serious injury to the person, partnership, or corporation requesting" such treatment. 16 C.F.R. § 3.45(b). The Commission generally attempts "to protect confidential business information from unnecessary airing," *H.P. Hood & Sons, Inc*., 58 FTC 1184, 1188 (1961), where the moving party demonstrates that the documents are secret and material to the business. *In re General Foods Corp.,* 95 FTC 352, 355 (1980); *In re Dura Labe Corp.,* 1999 FTC LEX1S 255, *5 (1999). More specifically, *in camera* treatment is intended to protect applicants who demonstrate that the relevant documents are "sufficiently secret and sufficiently material to the applicant's business that disclosure would result in serious competitive injury." *In re General Foods Corp.*, 95 FTC 352, 355 (1980).

The Commission has applied a six-part test in considering whether documents are sufficiently secret and material to merit *in camera* treatment: (1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken to guard the secrecy of the information; (4) the value of the information to the business and its competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be acquired or duplicated by others. *In re Bristol-Myers Co.,* 90 FTC 455, 456-457 (1977). These factors can be fulfilled by extrinsic evidence or may be inferred from the documents themselves. *In re E.I. Dupont de Nemours & Co.*, 97 FTC 116 (1981). As described below, the Confidential Information is sufficiently secret and sufficiently material to Impax's business that disclosure would result in serious competitive injury.

IV. Disclosure of the Confidential Information in Endo and Impax Internal Documents Would Result in Serious Injury to Impax and Harm Competition in the Market

The Impax and Endo internal documents listed in Appendix A are both secret and material to Impax's business operations. Impax's competitors and potential partners could use the Confidential Information in these documents contain to gain an unfair advantage over Impax in the marketplace and/or in future negotiations, and to "free-ride" off of Impax's research and development efforts. This would chill pharmaceutical innovation and collaboration to the detriment of competition and consumers.

A. Impax Invested Substantial Resources in Developing the Confidential Information Contained in the Impax and Endo Confidential Documents.

Impax has invested millions of dollars and thousands of hours researching and developing products still in its development pipeline. The Confidential Information in Endo and Impax internal documents reveal the fruits of these investments, including Impax's research and

development strategies and work product. For example, such documents describe Impax's development and testing of various potential IPX203 formulations, including early-stage evaluations and formulation strategies contemplated but not ultimately pursued.

Similarly, Impax invested significant resources to develop complex and comprehensive financial and sales projections for future years and future products. This information was derived from numerous sources and is based upon the unique expertise of Impax's analysts and senior executives.

Finally, Impax conducted market research and due diligence to identify the potential mergers, acquisitions, and investments discussed in the Confidential Documents.

B. The Information in the Confidential Documents Would Be Valuable to Competitors Seeking an Unfair Advantage in the Marketplace, Who Could Not Otherwise Develop the Information

Were Impax's competitors and potential competitors to gain access to documents revealing Impax's efforts for products still in development, they would unjustly benefit from Impax's expertise and years of research and development work. This is particularly true for information regarding Impax's product candidate IPX203. IPX203 is intended to offer an improvement over existing Parkinson's disease treatment. Were Impax's competitors permitted access to information regarding Impax's extensive efforts to achieve that improvement, they might unfairly use such information to gain a competitive advantage, free-riding off of Impax's extensive work and unique formulation capabilities. There is no means by which Impax's competitors would otherwise be granted access to the trade secret and/or proprietary information associated with Impax's ongoing development work. As a company, Impax relies on the expertise of its researchers and scientific team in developing complex formulations other companies may find too challenging to pursue.

Undermining Impax's ability to reap the commercial benefits of that innovation would severely jeopardize the company's ability to compete and overall business model. It could also chill future innovation and development efforts.

Impax's detailed financial and sales projections for future years and Impax's internal discussions regarding customer-specific pricing offer insight into the company's business plans, long term strategy, and approach to pricing. Competitors could easily exploit this to gain an unfair advantage, and could not gain comparable insight except from Impax's internal information. With respect to Impax's generic products, which compete primarily on price, this information is particularly competitively sensitive.

Finally, publically disclosing internal Impax discussions regarding mergers, acquisitions, and investments Impax has contemplated or discussed with potential partners would put Impax at a strategic disadvantage in future negotiations with those and other potential partners. Disclosure of such sensitive internal discussion would also disadvantage Impax vis-à-vis Impax's competitors potentially vying for the same or similar arrangements, as these competitors would be aware of Impax's negotiation strategies and business goals.

V. Impax Has Consistently Protected the Confidential Documents from Unauthorized Disclosure

Impax makes significant efforts to protect the Confidential Documents from public disclosure. In particular, Impax requires all employees to protect confidential information and provides training in specific measures to ensure appropriate confidentiality. Impax also includes language in all employment agreements providing that any failure to protect confidential information may result in disciplinary action, including termination of employment. Impax requests *in camera* treatment of documents that fall within the company's institutional program to

protect against unauthorized disclosure. As noted below, the contents of the Confidential Documents would be invaluable to competitors. For this reason, Impax has preserved the secrecy of the Confidential Documents up to this point.

Impax shared the Confidential Information reflected in the Endo internal documents listed in Appendix A only in the context of negotiating and facilitating Endo's due diligence regarding the DCA. These diligence and negotiations were covered by a non-disclosure agreement between the parties.

VI. Impax Is Contractually Obligated to Prevent Public Disclosure of the Third Party Data Sets Included in the Confidential Documents.

Impax also seeks protection for certain data Impax purchased, either directly or through its agents, from third party vendors, including IMS Health, MMIT Network, and Truven. The purchase contracts governing these transactions include commitments to keep the respective data sets confidential, unless Impax is required by law to disclose it or receives written permission from the data vendor to do so. These data vendors have not agreed to public disclosure of the data for which Impax seeks in camera treatment.

VII. Conclusion

For the reasons detailed in this motion and in the Declaration of Farschad Farzan, Impax respectfully requests that this Court grant *in camera* treatment to the Confidential Information identified in Appendix A.

Dated: October 10, 2017

By: */s/ Edward D. Hassi*

Edward David Hassi
ehassi@omm.com

Edward D. Hassi
ehassi@omm.com
Michael E. Antalics
mantalics@omm.com
Benjamin J. Hendricks
bhendricks@omm.com
Eileen M. Brogan
ebrogan@omm.com
O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, D.C. 20006
Telephone: (202) 383-5300
Facsimile: (202) 383-5414

Anna M. Fabish
afabish@omm.com
Stephen J. McIntyre
smcintyre@omm.com
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, California 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407

Counsel for Impax Laboratories, Inc.

UNITED STATES OF AMERICA
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[PROPOSED] ORDER GRANTING MOTION OF IMPAX LABORATORIES, INC. *IN CAMERA* TREATMENT OF DESIGNATED TRIAL EXHIBITS

Upon consideration of Impax Laboratories ("Impax's") Motion for *In Camera* Treatment of Designated Trial Exhibits, it is HEREBY ORDERED that the documents listed in Appendix A of Impax's Motion are to be provided permanent *in camera* treatment, to the extent described in Appendix A, from the date of this Order in their entirety.

ORDERED: **D. Michael Chappell**
Chief Administrative Law Judge

Date: _____ _____

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2017, I emailed a copy of the foregoing to the following individuals:

Markus Meier
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: mmeier@ftc.gov

Bradley Albert
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: balbert@ftc.gov

Daniel Butrymowicz
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: dbutrymowicz@ftc.gov

Nicholas Leefer
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: nleefer@ftc.gov

Synda Mark
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: smark@ftc.gov

Maren Schmidt
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: mschmidt@ftc.gov

Jamie Towey
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: jtowey@ftc.gov

Eric Sprague
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: esprague@ftc.gov

Chuck Loughlin
Federal Trade Commission
600 Pennsylvania Ave, NW
Washington, DC 20580
Telephone: 202-326-3759
Email: cloughlin@ftc.gov

By: */s/ Eileen M. Brogan*

Eileen M. Brogan
O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, D.C. 20006
Telephone: (202) 383-5300

APPENDIX A

APPENDIX A TO IMPAX LABORATORIES, INC.'S MOTION FOR *IN CAMERA* TREATMENT

Appendix A lists those exhibits for which Impax seeks *in camera* treatment in whole or in part. Impax requests full or partial *in camera* treatment as indicated in the far right column. Copies of the exhibits for which Impax is requesting only partial *in camera* treatment are included in the non-public version of this appendix, and include markings for proposed redactions. These markings are visible as red outlines around the text for which Impax is seeking *in camera* treatment and can be printed in hard copy by selecting "Document and Markups" in the print screen in Adobe Acrobat. Impax requests full *in camera* treatment for all other exhibits listed below.
All documents in Appendix A produced in native are included in the request for full *in camera* treatment.

EXHIBIT NO.	DATE	BATES BEGIN	BATES END	DESCRIPTION	IN CAMERA TREATMENT REQUESTED
CX0013	02/01/2013	IMPAX-OPANA-CID00004335	IMPAX-OPANA-CID00004336	Email from Todd Engle to William Ball, rjh@rjhgroupinc.com, Joe Farkas re: Kaiser 60% off 65% off	Partial
CX0114	06/03/2010	IMPAX-OPANA-CID00011817	IMPAX-OPANA-CID00011818	Email from Chris Mengler to Michael Nestor re: <no subject>	Partial
CX0422	07/23/2010	IMPAX-OPANA-CID00018515	IMPAX-OPANA-CID00018542	Email from Jennifer Hsu to Leslie Benet, Allen Chao, Art Koch, et al. re: BOD Monthly Update -- June 2010 - CONFIDENTIAL w/Attach: BOD Monthly Update June 2010 072310.doc	Partial
CX0515	08/08/2010	IMPAX-OPANA-CID00012917	IMPAX-OPANA-CID00012959	Email from Larry Hsu to Laura Bisbing, Jennifer Hsu re: Mengler Board Slides w/Attach: Mengler Board Presentation Aug10 080510b.ppt	Partial
CX0521	02/26/2014	IMPAX-OPANA-CID00019495	IMPAX-OPANA-CID00019542	Impax Presentation: IMPAX Pharmaceuticals R&D Update	Partial
CX1007	05/25/2010	EPI001445208	EPI001445307	Email from Robert Cobuzzi to Ernest Kopecky, Paula Clark, Frank Diana, et al. re: IPX066 w/Attach: 066 Apr2010AAN poster final poster.ppt; IPX066_IMPAX_Partner_Confidential_032010_FINAL.PDF	Partial
CX1707	06/08/2010	EPI001644520	EPI001644537	Endo Document: [redacted]	Full
CX2601	01/20/2009	IMPAX-OPANA-CID00020102	IMPAX-OPANA-CID00020107	Email from Shawn Fatholahi to Michael Nestor re: [redacted]	Full
CX2652	10/15/2013	IMPAX-OPANA-CID00015150	IMPAX-OPANA-CID00015162	Email from Kevin Sica to Todd Engle, Carole Ben-Maimon re: Plan Update w/Attach: 2014 5 Year Plan Presentation 10151.pptx; Plan with Sept 13 Forecast Update for Kloss V3.xlsx	Full
CX2663	05/25/2010	Impax_Opana_PartIII_0002498	Impax_Opana_PartIII_0002498	Impax Document: Minutes of the Meeting of the Board of Directors of Impax Laboratories, Inc.	Partial
CX2691	12/04/2012	Impax_Opana_PartIII_0004179	Impax_Opana_PartIII_0004182	Impax Document: Minutes of the Meeting of the Board of Directors of Impax Laboratories, Inc.	Partial

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CX2696	07/18/2014	CX2696-001	CX2696-039	Letter from Paula Blizzard to Jamie Towey and Maren Schmidt re: CID issued to Impax Laboratories concerning FTC File No. 1410004	Partial
CX2745	10/28/2015	EPI002190360	EPI002190361	Email from Donna Papa to Brian Lortie, Sue Hall, Doug Macpherson, et al. re: Evaluation of IPX-203 w/Attach: Evaluation of IPX-203 (carbidopa_levodopa).pptx	Partial
CX2746	10/29/2015	EPI002190362	EPI002190363	Email from Dough Macpherson to Jennifer Dubas re: Evaluation of IPX-203 w/Attach: Evaluation of IPX-203 (carbidopa_levodopa).pptx	Partial
CX2776	05/28/2010	EPI002160966	EPI002160967	Email from Mark Bradley to Karen Adler re: R&D Valuation w/Attach: [redacted]	Full
CX2777	06/06/2010	EPI002161024	EPI002161025	Email from Mark and Cheryl Bradley to Mark Bradley re: [redacted]	Full
CX2778	06/06/2010	EPI002161067	EPI002161068	Email from Mark and Cheryl Bradley to Mark Bradley re: [redacted]	Full
CX2919	08/17/2010	Impax_Opana_PartIII_0004185	Impax_Opana_PartIII_0004188	Impax Document: Minutes of the Meeting of the Board of Directors of Impax Laboratories, Inc.	Partial
CX2928	06/29/2017	CX2928-001	CX2928-018	Document: Respondent Impax Laboratories, Inc.'s Objections and Responses to Complaint Counsel's Third Set of Interrogatories	Partial
CX2984	12/09/2015	Impax_Opana_PartIII_0004195	Impax_Opana_PartIII_0004208	Impax Document: Minutes of the Regular Meeting of the Board of Directors of Impax Laboratories, Inc.	Partial
CX3096	00/00/2014	Impax_Opana_PartIII_0002842	Impax_Opana_PartIII_0002868	Impax Presentation: Board Presentation (Non-GAAP)	Partial
CX3102	10/19/2014	Impax_Opana_PartIII_0041757	Impax_Opana_PartIII_0041807	Email from Sean Palmer to Mark Donohue re: Furyk Rating Agency Presentation w/Attach: Impax RAP_v10.20.14.pptx	Partial
CX3107	11/19/2014	Impax_Opana_PartIII_0063751	Impax_Opana_PartIII_0063765	Email from Larry Kloss to Bryan Reasons, Michael Nestor, Fred Wilkinson, et al. re: 2015 Plan - Executive Review 11-20-14 R1 (Update) w/Attach: Dec 14 BOD 2015 Plan 11-20-14 R1.pdf	Partial
CX3140	12/11/2014	Impax_Opana_PartIII_0003069	Impax_Opana_PartIII_0003109	Impax Presentation: Impax Generic Business Board of Directors Meeting December 11, 2014	Partial
CX3148	08/19/2015	Impax_Opana_PartIII_0052672	Impax_Opana_PartIII_0052673	Email from Todd Engle to Kevin Sica and Thomas Sammier re: Copy of Oxymorphone ER price increase model Aug 2015 TMS 8-8-15.xls w/Attach: Copy of Oxymorphone ER price increase model Aug 2015 TMS 8-8-15.xls	Partial

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CX3149	03/16/2016	Impax_Opana_PartIII_0052702	Impax_Opana_PartIII_0052706	Email from Mike Grisby to Todd Engle re: [redacted]	Full
CX3150	01/21/2016	Impax_Opana_PartIII_0052804	Impax_Opana_PartIII_0052807	Email from William Ball to Tracy Plouffe, Jim MacDonald and Todd Engle re: Oxymorphone price increases w/Attach: OptiSource Price Increase - Oct. 2015.doc	Partial
CX3166	01/24/2013	IMPAX-OPANA-CID00019616	IMPAX-OPANA-CID00019694	Impax Presentation: Impax Pharmaceutical R&D	Full
CX3167	08/11/2010	IMPAX-OPANA-CID00019989	IMPAX-OPANA-CID00020051	Impax Presentation: Brand R&D Presentation	Full
CX3176	6/00/2009	EPI001849033	EPI001849050	Endo Document: IPX-203 Opportunity Evaluation Worksheet (OEW)	Partial
CX3181	10/28/2015	EPI002190281	EPI002190359	Email from Donna Papa to Andy Gesek, Nancy Fefrow, Craig Paterson, et al. re: Evaluation of IPX-203 (carbidopa_levodopa).pptx w/Attach: Duopa PI.pdf, Evaluation of IPX-203 (Carbidopa_levodopa).pptx, Rytary PI.pdf	Partial
CX3190	08/10/2017	CX3190-001	CX3190-029	Document: Respondent Impax Laboratories, Inc.'s Objections and Responses to Complaint Counsel's Second Set of Interrogatories (Revised)	Partial
CX3209	08/11/2014	Impax_Opana_PartIII_0060481	Impax_Opana_PartIII_0060482	Email from Jeff McCown to George Hill, Connie Chiang, David Howard re: Dara w/Attach: Project Dara Financials_(8 11 14).xlsx	Partial
CX3275	08/05/2017	Impax_Opana_PartIII_0081712	Impax_Opana_PartIII_0081742	Document: Contract Settlement Agreement [Execution Version]	Full
CX3294	03/16/2017	Impax_Opana_PartIII_0000003	Impax_Opana_PartIII_0000003	Impax Spreadsheet: [redacted]	Full
CX3296	05/08/2017	Impax_Opana_PartIII_0002021	Impax_Opana_PartIII_0002021	Impax Spreadsheet: [redacted]	Full
CX3297	05/01/2017	Impax_Opana_PartIII_0002022	Impax_Opana_PartIII_0002022	Impax Spreadsheet: [redacted]	Full
CX3298	05/17/2017	Impax_Opana_PartIII_0002023	Impax_Opana_PartIII_0002023	Impax Spreadsheet: [redacted]	Full
CX3301	03/21/2014	IMPAX-OPANA-CID00001064	IMPAX-OPANA-CID00001079	Impax Spreadsheet: [redacted]	Full
CX3304	01/09/2015	IMPAX-OPANA-CID00023835	IMPAX-OPANA-CID00023835	Impax Spreadsheet: 2014 oxymorphone Sales	Full
CX3305	00/00/0000	IMS_NPA_2003-2008 - HIGHLY CONFIDEN	IMS_NPA_2003-2008 - HIGHLY CONFIDEN	IMS_NPA_2003-2008 - HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER	Full
CX3306	00/00/0000	IMS_NSP_2003-2008 - HIGHLY CONFIDEN	IMS_NSP_2003-2008 - HIGHLY CONFIDEN	IMS_NSP_2003-2008 - HIGHLY CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER	Full

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CX3307	00/00/0000	OXYMORPHONE_IR_2009-2010 - HIGHLY C	OXYMORPHONE_IR_2009-2010 - HIGHLY C	OXYMORPHONE_IR_2009-2010 - HIGHLY CONFIDENTIAL	Full
CX3312	05/11/2017	CX3312-001	CX3312-010	Letter from Anna Fabish to Nick Leefer re: In re Impax Laboratories, Inc., Dkt. No. 9373	Full
CX3328	03/16/2017	Impax_Opana_PartIII_0000002	Impax_Opana_PartIII_0000002	Impax Spreadsheet: [redacted]	Full
CX3438	11/05/2012	Impax_Opana_PartIII_0080393	Impax_Opana_PartIII_0080427	Email from Susan Ostrander to Carole Ben-Maimon re: Board Presentation from 8/22 meeting w/Attach: 4a-Generic Aug2012 FINAL.pptx	Partial
CX3441	08/11/2017	CX3441-001	CX3441-017	Document: Respondent Impax's Responses and Objections to CC's Interrogatory No. 19 (Revised)	Partial
CX3442	08/11/2017	CX3442-001	CX3442-019	Document: Respondent Impax's Responses and Objections to CC's Third Set of Interrogatories (Revised)	Partial
CX4020	08/11/2017	CX4020-001	CX4020-060	Deposition Transcript: Bryan Reasons (Impax)	Partial
CX4033	08/04/2017	CX4033-001	CX4033-075	Deposition Transcript: Michael Nestor (Impax)	Partial
RX-072	05/24/2010	EPI001433682	EPI001433687	Email from D. Godolphin to R. Cobuzzi, et al., RE: [redacted]	Full
RX-077	06/08/2010	EPI001448440	EPI001448457	Email from R. Cobuzzi to R. Kimmel, et al., re: License with IMPAX Completed (June 8, 2010), with attachments	Partial
RX-079	06/01/2009	EPI001454170	EPI001454186	Opportunity Evaluation Worksheet (OEW) (June 2009)	Partial
RX-080		EPI001454188	EPI001454204	Opportunity Evaluation Workshet, IPX-203	Partial
RX-081	06/01/2009	EPI001454208	EPI001454224	Opportunity Evaluation Worksheet (OEW) (June 2009)	Partial
RX-107	06/03/2010	EPI001897556	EPI001897556	Impax Presentation, [redacted]	Full
RX-134	06/08/2017	EPI002161025	EPI002161066	Endo Spreadsheet, [redacted]	Full
RX-135	06/05/2010	EPI002161113	EPI002161154	Email from M. Bradley to K. Adler, et al., re: [redacted] with attachments	Full
RX-143		Impax_Opana_PartIII_0000005	Impax_Opana_PartIII_0000005	Spreadsheet	Full
RX-149		Impax_Opana_PartIII_0002021	Impax_Opana_PartIII_0002021	Spreadsheet	Full
RX-150	02/01/2010	Impax_Opana_PartIII_0002024	Impax_Opana_PartIII_0002054	Impax Labs. Board of Directors Meeting (Feb. 2010)	Partial
RX-151	11/01/2009	Impax_Opana_PartIII_0002055	Impax_Opana_PartIII_0002090	Impax Labs. Board of Directors Meeting (Nov. 2009)	Partial
RX-152	05/13/2014	Impax_Opana_PartIII_0002298	Impax_Opana_PartIII_0002318	Impax Generic Business Board of Directors Meeting (May 13, 2014)	Partial

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RX-154	12/10/2013	Impax_Opana_PartIII_0002381	Impax_Opana_PartIII_0002398	Impax New Product Launches Presentation to Board of Directors (Dec. 10, 2013)	Partial
RX-155	12/04/2012	Impax_Opana_PartIII_0002399	Impax_Opana_PartIII_0002430	Impax Generic Business Board of Directors Meeting (Dec. 4, 2012)	Partial
RX-156	12/11/2014	Impax_Opana_PartIII_0002723	Impax_Opana_PartIII_0002738	Impax Board Presentation, 2015 Preliminary Plan (Non-GAAP) (Dec. 11, 2014)	Partial
RX-157	12/09/2015	Impax_Opana_PartIII_0002758	Impax_Opana_PartIII_0002788	Impax Specialty Pharma, Board of Directors Meeting (Dec. 9, 2015)	Partial
RX-158	02/26/2014	Impax_Opana_PartIII_0003397	Impax_Opana_PartIII_0003472	Impax Pharmaceuticals Update (Feb. 26, 2014)	Partial
RX-161	08/17/2010	Impax_Opana_PartIII_0003803	Impax_Opana_PartIII_0003847	Impax Pharmaceuticals Board Presentation (Aug. 17, 2010)	Full
RX-162	08/17/2010	Impax_Opana_PartIII_0003854	Impax_Opana_PartIII_0003898	Impax Pharmaceuticals Board Presentation (Aug. 17, 2010)	Full
RX-164	02/16/2011	Impax_Opana_PartIII_0004149	Impax_Opana_PartIII_0004155	Minutes of the Meeting of the Board of Directors of Impax Laboratories, Inc. (Feb. 16 & 17, 2011)	Partial
RX-165	02/22/2010	Impax_Opana_PartIII_0004158	Impax_Opana_PartIII_0004162	Minutes of the Meeting of the Board of Directors of Impax Laboratories, Inc. (Feb. 22-24, 2010)	Partial
RX-169	11/17/2009	Impax_Opana_PartIII_0004192	Impax_Opana_PartIII_0004194	Minutes of the Meeting of the Board of Directors of Impax Laboratories, Inc. (Nov. 17-18, 2009)	Partial
RX-199	03/10/2015	Impax_Opana_PartIII_0056962	Impax_Opana_PartIII_0056992	Email from M. Nestor to S. Gupta re: IPX203 (Mar. 10, 2015), with attachments	Partial
RX-203		Impax_Opana_PartIII_0058604	Impax_Opana_PartIII_0058605	Impax Spreadsheet, [redacted]	Full
RX-204	09/24/2015	Impax_Opana_PartIII_0061406	Impax_Opana_PartIII_0061406	Email from V. Gupta to M. Nestor re: [redacted]	Full
RX-205	11/11/2012	Impax_Opana_PartIII_0061613	Impax_Opana_PartIII_0061629	Email from S. Gupta to F. Wilkinson, et al., Specialty RD Project Management slides & Excel file, with attachments (Nov. 11, 2012)	Partial
RX-207	01/10/2015	Impax_Opana_PartIII_0062125	Impax_Opana_PartIII_0062168	Email from A. Gaynor to M. Nestor re: [redacted] with attachments	Full
RX-208	04/15/2015	Impax_Opana_PartIII_0063064	Impax_Opana_PartIII_0063080	IPX203 Project Update (Apr. 15, 2015)	Partial
RX-210	08/15/2015	Impax_Opana_PartIII_0063716	Impax_Opana_PartIII_0063725	Email from L. Kloss to M. Nestor re: [redacted] with attachments	Full
RX-211	08/07/2015	Impax_Opana_PartIII_0063726	Impax_Opana_PartIII_0063735	Email from D. Ailinger to D. Paterson, et al., re: Endo IPX-203 (Aug. 7, 2015)	Partial
RX-222	02/18/2015	Impax_Opana_PartIII_0073375	Impax_Opana_PartIII_0073392	[redacted]	Full
RX-223	05/13/2014	Impax_Opana_PartIII_0073696	Impax_Opana_PartIII_0073706	Email from S. Mortimer to M. Nestor re: [redacted] with attachments	Full

APPENDIX A TO IMPAX LABORATORIES, INC.'S MOTION FOR *IN CAMERA* TREATMENT

RX-224	04/16/2015	Impax_Opana_PartIII_0077003	Impax_Opana_PartIII_0077023	Email from S. Gupta to F. Wilkinson, et al., re: IPX203 Brand Update_16Apr2015 (with CMC)_final.potx (Apr. 16, 2015), with attachments	Partial
RX-225	08/19/2014	Impax_Opana_PartIII_0077025	Impax_Opana_PartIII_0077061	Impax Pharmaceuticals Update - DRAFT (Aug. 19, 2014)	Full
RX-228	04/27/2015	Impax_Opana_PartIII_0079934	Impax_Opana_PartIII_0079935	Email from C. Atwell to D. Ailinger re: [redacted] with attachments	Full
RX-234	03/26/2009	Impax_Opana_PartIII_0080630	Impax_Opana_PartIII_0080651	[redacted]	Full
RX-235	12/10/2013	Impax_Opana_PartIII_0080655	Impax_Opana_PartIII_0080693	Impax Pharmaceuticals Update (Dec. 10, 2013)	Full
RX-236	05/29/2015	Impax_Opana_PartIII_0080915	Impax_Opana_PartIII_0080920	Email from A. Gaynor to D. Ailinger, et al., re: [redacted] with attachments	Full
RX-237	05/29/2015	Impax_Opana_PartIII_0080921	Impax_Opana_PartIII_0080966	Email from Y. Kang to D. Ailinger, et al., re: Impax Brand Pipeline (May 29, 2015), with attachment	Partial
RX-238	07/29/2015	Impax_Opana_PartIII_0080967	Impax_Opana_PartIII_0080991	Email from A. Gaynor to D. Ailinger, et al., re: [redacted] with attachments	Full
RX-239	07/02/2015	Impax_Opana_PartIII_0081075	Impax_Opana_PartIII_0081123	Email from J. de Los Reyes to R. Ting, et al., re: PEC Meeting (9AM PT/12PM ET) (July 2, 2015)	Partial
RX-240	12/14/2015	Impax_Opana_PartIII_0081126	Impax_Opana_PartIII_0081175	Email from Y. Kang to M. Nestor, et al., re: [redacted] with attachments	Full
RX-241		Impax_Opana_PartIII_0081315	Impax_Opana_PartIII_0081315	[redacted] Spreadsheet	Full
RX-243		Impax_Opana_PartIII_0081330	Impax_Opana_PartIII_0081330	Impax [redacted]	Full
RX-244	11/17/2009	Impax_Opana_PartIII_0081369	Impax_Opana_PartIII_0081385	Email from N. Modi to A. Hsu, et al. re: Extendopa 11-17-09.ppt (Nov. 17, 2009), with attachments	Partial
RX-245	11/17/2009	Impax_Opana_PartIII_0081386	Impax_Opana_PartIII_0081402	Email from S. Mortimer to N. Modi re: Extendopa 11- 17-09.ppt (Nov. 17, 2009), with attachments	Partial
RX-246	07/02/2015	Impax_Opana_PartIII_0081403	Impax_Opana_PartIII_0081450	Impax Presentation, Portfolio Executive Committee (PEC) Meeting (July 2, 2015)	Full
RX-247	11/24/2009	Impax_Opana_PartIII_0081451	Impax_Opana_PartIII_0081461	Email from S. Mortimer to D. Anthony, et al., re: [redacted] with attachments	Full
RX-248	06/11/2010	Impax_Opana_PartIII_0081481	Impax_Opana_PartIII_0081481	Email from A. Mittur to H. Yao re: Bacterial Degradation of LD esters (June 11, 2010)	Partial
RX-250	03/26/2009	Impax_Opana_PartIII_0081554	Impax_Opana_PartIII_0081555	Email from L. Zhu to A. Hsu, et al., re: V1512 Discussions (Mar. 26, 2009)	Partial
RX-252		Impax_Opana_PartIII_0081596	Impax_Opana_PartIII_0081599	Impax Presentation, [redacted]	Full
RX-253		Impax_Opana_PartIII_0081648	Impax_Opana_PartIII_0081648	[redacted]	Full

APPENDIX A TO IMPAX LABORATORIES, INC.'S MOTION FOR *IN CAMERA* TREATMENT

RX-254	11/02/2011	Impax_Opana_PartIII_0081651	Impax_Opana_PartIII_0081655	Letter from Cyprotex to A. Mittur re: Proposals for Services (Nov. 2, 2011)	Partial
RX-255	11/11/2010	Impax_Opana_PartIII_0081660	Impax_Opana_PartIII_0081669	Letter from Appredica to A. Ding re: [redacted]	Full
RX-256		Impax_Opana_PartIII_0081670	Impax_Opana_PartIII_0081670	[redacted] Spreadsheet	Full
RX-257		Impax_Opana_PartIII_0081671	Impax_Opana_PartIII_0081679	DRAFT Final Report, [redacted]	Full
RX-266		IMPAX-OPANA-CID00001392	IMPAX-OPANA-CID00001392	Spreadsheet, [redacted]	Full
RX-282	06/04/2010	IMPAX-OPANA-CID00001823	IMPAX-OPANA-CID00001878	Email from M. Nestor to R. Cobuzzi, et al., re: Information Requested (June 4, 2010), with attachments	Partial
RX-301	03/11/2013	IMPAX-OPANA-CID00004338	IMPAX-OPANA-CID00004339	Email from K. Sica to T. Engle re: [redacted] with attachments	Full
RX-328	12/15/2010	IMPAX-OPANA-CID00006530	IMPAX-OPANA-CID00006563	License, Development and Commercialization Agreement (Dec. 15, 2010)	Full
RX-368	08/01/2010	IMPAX-OPANA-CID00012655	IMPAX-OPANA-CID00012699	Email from M. Nestor to S. Gupta re: BoD Slides (Aug. 1, 2010), with attachments	Partial
RX-370	07/05/2013	IMPAX-OPANA-CID00016072	IMPAX-OPANA-CID00016091	Email from M. Nestor to B. Smith re: Slide Format (July 5, 2013), with attachments	Partial
RX-371	07/05/2013	IMPAX-OPANA-CID00016117	IMPAX-OPANA-CID00016136	Email from B. Smith to M. Nestor, RE: Slide format, with attachment (July 5, 2013)	Partial
RX-372	05/17/2013	IMPAX-OPANA-CID00016868	IMPAX-OPANA-CID00016901	Email from J. Hsu to L. His, May 2013 Board Meeting final presentations, with attachments, (May 17, 2013)	Partial
RX-374	05/17/2010	IMPAX-OPANA-CID00018082	IMPAX-OPANA-CID00018105	Email from C. Mengler to L. Bisbing, et al., re: Mengler Board Materials (May 17, 2010), with attachments	Partial
RX-375	04/02/2010	IMPAX-OPANA-CID00018174	IMPAX-OPANA-CID00018193	Email from J. Hsu to A. Koch, et al., re: BOD Monthly Update - Feb. 10 - CONFIDENTIAL (Apr. 2, 2010), with attachments	Partial
RX-376	06/04/2010	IMPAX-OPANA-CID00018251	IMPAX-OPANA-CID00018300	Email from M. Nestor to A. Koch, et al., re: Info Requested by Endo on Successor to IPX-066 (June 4, 2010), with attachments	Partial
RX-377	06/03/2010	IMPAX-OPANA-CID00018252	IMPAX-OPANA-CID00018295	Impax Presentation, [redacted]	Full
RX-378	06/04/2010	IMPAX-OPANA-CID00018296	IMPAX-OPANA-CID00018300	Impax Presentation, [redacted]	Full
RX-393	04/21/2009	IMPAX-OPANA-CID00020159	IMPAX-OPANA-CID00020180	Email from D. Paterson to A. Koch, et al., re: [redacted] with attachments	Full
RX-414		IMPAX-OPANA-CID00023836	IMPAX-OPANA-CID00023836	Spreadsheet, [redacted]	Full
RX-552		N/A	N/A	IMS Health NDTI Data	Full

APPENDIX A TO IMPAX LABORATORIES, INC.'S MOTION FOR *IN CAMERA* TREATMENT

RX-553		N/A	N/A	IMS_NPA_2003-2008	Full
RX-554		N/A	N/A	IMS Health Channel Dynamics Data	Full
RX-555		N/A	N/A	MMIT Formulary Data	Full
RX-556		N/A	N/A	Truven RedBook	Full
RX-557		N/A	N/A	MMIT	Full

DOCUMENTS WITHHELD PENDING ORDER

Notice of Electronic Service

I hereby certify that on October 17, 2017, I filed an electronic copy of the foregoing DECLARATION OF F. FARZAN SUPPORTING IMPAX LABORATORIES, INC.'S MOTION FOR IN CAMERA TREATMENT OF DESIGNATED TRIAL EXHIBITS, MOTION OF IMPAX LABORATORIES, INC. FOR IN CAMERA TREATMENT OF DESIGNATED TRIAL EXHIBITS, with:

D. Michael Chappell
Chief Administrative Law Judge
600 Pennsylvania Ave., NW
Suite 110
Washington, DC, 20580

Donald Clark
600 Pennsylvania Ave., NW
Suite 172
Washington, DC, 20580

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Bradley Albert
Attorney
Federal Trade Commission
balbert@ftc.gov
Complaint

Daniel Butrymowicz
Attorney
Federal Trade Commission
dbutrymowicz@ftc.gov
Complaint

Nicholas Leefer
Attorney
Federal Trade Commission
nleefer@ftc.gov
Complaint

Synda Mark
Attorney
Federal Trade Commission
smark@ftc.gov
Complaint

Maren Schmidt
Attorney
Federal Trade Commission
mschmidt@ftc.gov
Complaint

Eric Sprague
Attorney
Federal Trade Commission
esprague@ftc.gov
Complaint

Jamie Towey
Attorney
Federal Trade Commission
jtowey@ftc.gov
Complaint

Chuck Loughlin
Attorney
Federal Trade Commission
cloughlin@ftc.gov
Complaint

Alpa D. Davis
Attorney
Federal Trade Commission
adavis6@ftc.gov
Complaint

Lauren Peay
Attorney
Federal Trade Commission
lpeay@ftc.gov
Complaint

James H. Weingarten
Attorney
Federal Trade Commission
jweingarten@ftc.gov
Complaint

Edward D. Hassi
O'Melveny & Myers, LLP
ehassi@omm.com
Respondent

Michael E. Antalics
O'Melveny & Myers, LLP
mantalics@omm.com
Respondent

Benjamin J. Hendricks
O'Melveny & Myers, LLP
bhendricks@omm.com
Respondent

Eileen M. Brogan
O'Melveny & Myers, LLP
ebrogan@omm.com
Respondent

Anna Fabish
O'Melveny & Myers, LLP
afabish@omm.com
Respondent

Stephen McIntyre
O'Melveny & Myers, LLP
smcintyre@omm.com
Respondent

Rebecca Weinstein
Attorney
Federal Trade Commission
rweinstein@ftc.gov
Complaint

Garth Huston
Attorney
Federal Trade Commission
ghuston@ftc.gov
Complaint

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Markus Meier
Attorney
Federal Trade Commission
mmeier@ftc.gov
Complaint

Eileen Brogan
Attorney

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
	)	
Impax Laboratories, Inc., a corporation.	)	DOCKET NO. 9373 ORIGINAL
	)	
	)	
	)	

DECLARATION OF F. FARZAN SUPPORTING IMPAX LABORATORIES, INC.'S MOTION FOR *IN CAMERA* TREATMENT OF DESIGNATED TRIAL EXHIBITS

I, Farschad Farzan, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts set forth in this declaration.

2. I am currently Senior Director of Corporate Litigation for Impax Laboratories, Inc. ("Impax"), the respondent in the above-captioned matter.

3. I am familiar with the documents listed in Appendix A to Impax's Motion for In Camera Treatment of Designated Trial Exhibits. Impax is seeking *in camera* treatment for these materials, either in whole or in part.

4. The third party data listed in Appendix A is subject to confidentiality obligations to the data vendors from which Impax or its agents purchased the data.

5. The remaining materials listed in Appendix A are internal documents of either Impax or Endo Pharmaceuticals. These internal documents contain Impax's competitively sensitive and/or proprietary information. Impax shared with Endo

the competitively sensitive and/or proprietary Impax information reflected in the Endo internal documents listed in Appendix A in the context of confidential due diligence efforts regarding what ultimately became the June 7, 2010 Distribution and Co-Promotion Agreement between the parties.

6. Public disclosure of the Impax and Endo internal documents listed in Appendix A would negatively affect Impax's ability to compete and interfere with Impax's fiduciary duties to its shareholders in various ways.

    a. Several of these internal documents contain financial and sales projections for future years and future products or reference customer-specific pricing discussions. Impax has not requested *in camera* treatment of financial and product forecasts for time periods that are wholly past. However, revealing Impax's projections regarding future sales, financial performance, competitive conditions, or customer-specific pricing requests, would put Impax's competitors at an unfair advantage.

    b. Impax also seeks to protect information in Impax internal documents regarding potential mergers, acquisitions, and investments. Impax internal analysis and discussion regarding such proposed deals reveal, among other things, Impax's strategic business objectives. Providing Impax's competitors or potential partners access to such internal discussions and analyses could put Impax at a strategic disadvantage in negotiations, and/or harm the company's future efforts to grow or partner with other companies.

c. Impax also requests *in camera* treatment for documents revealing specific research and formulation efforts for products still in development, including proprietary formulation information. While Impax does not seek in camera treatment for similar information regarding products that have already come to market, the release of scientific research, clinical evaluations, or identified opportunities regarding pipeline products would damage Impax's ability to bring such products to market and grant an unfair advantage to its competitors. Included in this category are numerous documents that discuss in detail Impax's research, formulation, and development work for the product candidate IPX203, a pipeline branded product still in development. This work is ongoing. IPX203 is intended to offer an improvement over existing Parkinson's disease treatment. Were Impax's competitors permitted access to information regarding Impax's extensive efforts to achieve that improvement, they might unfairly use that information to gain a competitive advantage, free-riding off of Impax's years of research and formulation work.

7. Finally, Impax seeks protection for certain data purchased from third party vendors. When purchasing this data, Impax either directly or through its agents agreed to keep this data confidential, unless Impax is required by law to disclose it or receives written permission from the data vendor to do so. These data vendors have not agreed to public disclosure of the data for which Impax seeks confidential treatment.

8. All of the information Impax seeks to protect in the Motion is treated as confidential within the company.

I hereby declare that the above statement is true to the best of my knowledge, information, and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury. Executed this 10th day of October in Hayward, California.

Dated: October 10, 2017

By:

Farschad Farzan

Farschad Farzan

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Complaint

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Attorney
Federal Trade Commission
dbutrymowicz@ftc.gov
Complaint

Nicholas Leefer
Attorney
Federal Trade Commission
nleefer@ftc.gov
Complaint

Synda Mark
Attorney
Federal Trade Commission
smark@ftc.gov
Complaint

Maren Schmidt
Attorney
Federal Trade Commission
mschmidt@ftc.gov
Complaint

Eric Sprague
Attorney
Federal Trade Commission
esprague@ftc.gov
Complaint

Jamie Towey
Attorney
Federal Trade Commission
jtowey@ftc.gov
Complaint

Chuck Loughlin
Attorney
Federal Trade Commission
cloughlin@ftc.gov
Complaint

Alpa D. Davis
Attorney
Federal Trade Commission
adavis6@ftc.gov
Complaint

Lauren Peay
Attorney
Federal Trade Commission
lpeay@ftc.gov
Complaint

James H. Weingarten
Attorney
Federal Trade Commission
jweingarten@ftc.gov
Complaint

Edward D. Hassi
O'Melveny & Myers, LLP
ehassi@omm.com
Respondent

Michael E. Antalics
O'Melveny & Myers, LLP
mantalics@omm.com
Respondent

Benjamin J. Hendricks
O'Melveny & Myers, LLP
bhendricks@omm.com
Respondent

Eileen M. Brogan
O'Melveny & Myers, LLP
ebrogan@omm.com
Respondent

Anna Fabish
O'Melveny & Myers, LLP
afabish@omm.com
Respondent

Stephen McIntyre
O'Melveny & Myers, LLP
smcintyre@omm.com
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Rebecca Weinstein
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rweinstein@ftc.gov
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ghuston@ftc.gov
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Markus Meier
Attorney
Federal Trade Commission
mmeier@ftc.gov
Complaint

Eileen Brogan
Attorney