

Supplemental Request
for Judicial Notice
Exhibit C

No. 2008-1062

In the
United States Court of Appeals
For the Federal Circuit

JANSSEN PHARMACEUTICA, N.V.
and JANSSEN, L.P.,

Plaintiffs-Appellees,

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

APR 21 2008

JAN HORBALY
CLERK

v.

APOTEX, INC.,

Defendant-Appellant.

Appeal from the United States District Court for the District of New Jersey in
case no. 06-CV-1020, Judge Dennis M. Cavanaugh.

JOINT APPENDIX

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April 21, 2008

TABLE OF CONTENTS FOR JOINT APPENDIX		
Docket Entry #	Description	Appendix Page(s)
	Apotex's Opposition to Plaintiffs' Motion to Dismiss, dated January 19, 2007	
41-5	Excerpt of Tab B (H.R. Conference Report, No. 108-391 (2003)) to Declaration of William A. Rakoczy in support of Apotex Inc.'s Memorandum of Law in Opposition to Plaintiffs' Motion to Dismiss Apotex's Counterclaims III and IV	A270
41-6	Excerpt of Tab C (149 CONG. REC. S15,669, S15,744-46 (daily ed. Nov. 24, 2003)) to Declaration of William A. Rakoczy in support of Apotex Inc.'s Memorandum of Law in Opposition to Plaintiffs' Motion to Dismiss Apotex's Counterclaims III and IV	A275
41-7	Excerpt of Tab D (149 CONG. REC. S15,881-86 (daily ed. Nov. 25, 2003)) to Declaration of William A. Rakoczy in support of Apotex Inc.'s Memorandum of Law in Opposition to Plaintiffs' Motion to Dismiss Apotex's Counterclaims III and IV	A281
44	Excerpt of Apotex Inc.'s Memorandum of Law in Support of Motion for Summary Judgment of Non-Infringement, dated January 22, 2007, submitted with Apotex Inc.'s Memorandum of Law in Support of Motion to Seal Materials Relating to Apotex's Motion for Summary Judgment of Non-Infringement	A319
50	Stipulation and Order, entered February 5, 2007	A408-A412
51	Excerpt of Plaintiffs' Reply Memorandum of Law in Support of Its Motion to Dismiss Defendant's Counterclaims III and IV Regarding U.S. Patent Nos. 5,453,425 and 5,616,587, dated February 5, 2007	A417
51-2	Excerpt of Reply Declaration of Scott B. Howard in Further Support of Plaintiffs' Motion to Dismiss	A435

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

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JANSSEN PHARMACEUTICA, N.V. and
JANSSEN, L.P.,

Plaintiffs,

v.

APOTEX INC.,

Defendant.

UNITED STATES
DISTRICT COURT
Civil Action Nos. 06-1020 (JCL) and
06-2935(JCL)

STIPULATION AND ORDER

WHEREAS, Apotex has filed ANDAs seeking FDA approval to market generic risperidone oral solution (ANDA No. 77-719) and generic risperidone tablets (ANDA No. 77-953); and

WHEREAS, Apotex's ANDAs contain a so-called "Paragraph IV Certification" to Janssen's U.S. Patent No. 4,804,663 ("the '663 patent"); and

WHEREAS, on March 3, 2006, Janssen filed suit (Civil Action No. 06-1020) against Apotex for infringement of the '663 patent under 35 U.S.C. § 271(e)(2)(A) based on Apotex's ANDA No. 77-719 for risperidone oral solution; and

WHEREAS, on June 27, 2006, Janssen filed suit (Civil Action No. 06-2935) against Apotex for infringement of the '663 patent under 35 U.S.C. § 271(e)(2)(A) based on Apotex's ANDA No. 77-953 for risperidone tablets; and

WHEREAS, the actions against Apotex have been consolidated before this Court for all purposes under Civil Action No. 06-1020 (hereinafter "the Apotex action"); and

WHEREAS, Janssen previously filed suit against other companies for infringement of the '663 patent in *Janssen Pharmaceutica N.V., et al. v. Mylan Laboratories Inc. and Dr. Reddy's Laboratories, Ltd., et al.*, Civil Action Nos. 03-6220 (JCL) and 03-6185 (JCL), also pending before this Court (hereinafter "the *Mylan/DRL* actions"); and

WHEREAS, on October 13, 2006, after a trial on the merits, this Court held in the *Mylan/DRL* actions that "Mylan and DRL have failed to prove by clear and convincing evidence that the '663 patent is obvious or that Janssen engaged in inequitable conduct. Thus, the '663 patent is neither invalid nor unenforceable, and as a result, Mylan and DRL have infringed that patent";

WHEREAS, this Court's October 13, 2006 decision in the *Mylan/DRL* actions is currently on appeal before the United States Court of Appeals for the Federal Circuit ("the Federal Circuit"); and

WHEREAS, to conserve the resources of the parties and this Court, Apotex and Janssen wish to stay the pending *Apotex* action regarding the '663 patent until a final decision issues and all appeals have been exhausted ("a final unappealable decision") in the *Mylan/DRL* actions, with Apotex agreeing to be bound by such disposition.

NOW THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND ORDERED that:

1. All claims, counterclaims, defenses, and discovery of any kind in the *Apotex* action relating to the '663 patent are hereby STAYED until entry of a final unappealable decision in the *Mylan/DRL* actions.
2. If a final unappealable decision in the *Mylan/DRL* actions holds that the '663 patent is valid, enforceable and infringed, the stay shall be lifted and such a judgment shall be entered in the *Apotex* action.

3. In the event that judgment in favor of Janssen in the *Mylan/DRL* actions is vacated, modified or reversed in a final unappealable decision, then such judgment shall be applied in the same manner in the *Apotex* action. If a final unappealable decision holds that the '663 patent is invalid in the *Mylan/DRL* actions, then the stay shall be lifted and such a judgment shall be entered in the *Apotex* action. If a final unappealable decision holds that the '663 patent is unenforceable in the *Mylan/DRL* actions, then the stay shall be lifted and such a judgment shall be entered in the *Apotex* action.
4. This stipulation and order only concerns judgment as to the validity, enforceability and infringement of the '663 patent. No judgment in the *Mylan/DRL* actions concerning willful infringement, exceptional case under 35 U.S.C. § 285 and/or attorney's fees in connection with the '663 patent shall be binding in the *Apotex* action. If judgment is entered in the *Apotex* action pursuant to paragraphs 2 or 3 with the *Apotex* action having been stayed until the entry of such judgment, then the parties agree to waive any claim for attorneys' fees against the other in the *Apotex* action as to the '663 patent. If judgment is entered in the *Apotex* action pursuant to paragraphs 2 or 3 with the *Apotex* action having been stayed until the entry of such judgment, any final judgment in the *Mylan/DRL* action concerning the issues of willful infringement and/or exceptional case under 35 U.S.C. § 285 shall have no relevance to, or bearing on, the *Apotex* action.
5. Notwithstanding the foregoing, either party may move to lift the stay for good cause shown.

6. Good cause, as set forth in paragraph 5 above, includes any settlement of the *Mylan/DRL* actions by all parties to those actions or any dismissal of both the *Mylan* and *DRL* appeals prior to disposition of the Federal Circuit appeal, in which case either party to the *Apotex* action may seek to litigate its claims or defenses.
7. Should either party move to lift the stay in the *Apotex* action, it hereby agrees to permit the completion of discovery on the '663 patent and to an adjustment of the schedule to accommodate the completion of such discovery.

Apotex Inc.

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Janssen Pharmaceutica N.V. and
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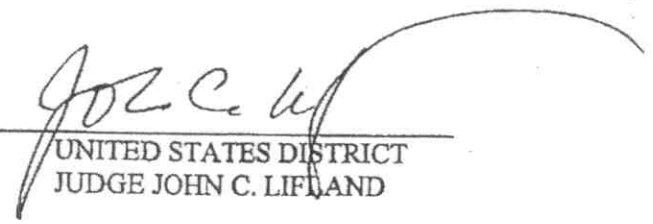
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DATED: January __, 2007

SO ORDERED:



UNITED STATES DISTRICT
JUDGE JOHN C. LIFFAND