

RECEIVED

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JUN 30 2009

SANOFI-AVENTIS U.S. LLC,
SANOFI-AVENTIS, DEBIOPHARM S.A.,
Plaintiffs,

v.

SANDOZ, INC. et al.,
Defendants.

AT 8:30
Lead Civil Action WILLIAM T. WALSH^M
3:07-cv-2762-JAP
CLERK
(CONSOLIDATED CASE)

FINAL JUDGMENT UNDER
FED. R. CIV. P. 54(b)

THIS MATTER having been opened to the Court by way of motions of defendants (docket numbers 103, 122, 124, 129, 131, 156 (Section VI.B), 207, and 210) for the entry of an Order of Summary Judgment on Non-infringement of U.S. Patent No. 5,338,874 ("the '874 Patent"), and the Court having filed an Opinion and Order on June 18, 2009, and for the reasons set forth in that Opinion and Order, resolving plaintiffs' claims of infringement of the '874 Patent asserted against defendants (1) Mayne Pharma Limited, Mayne Pharma (USA) Inc., Hospira Australia Pty Ltd, and Hospira, Inc. (collectively, "Mayne"), (2) Sandoz, Inc. ("Sandoz"), (3) Pharmachemie B.V., Teva Parenteral Medicines, Inc., and Teva Pharmaceuticals USA, Inc. (collectively, "Teva"), (4) Barr Laboratories, Inc. and Pliva-Lachema A.S. (together, "Barr"), (5) W.C. Heraeus GmbH ("Heraeus"), (6) APP Pharmaceuticals, Inc. and Abraxis

BioScience, Inc. (together, "APP"), (7) Actavis Totowa LLC, Actavis, Inc., and Actavis Group hf (collectively, "Actavis"), (8) Fresenius Kabi Oncology plc f/k/a Dabur Oncology plc, and Fresenius Kabi Pharma Limited f/k/a Dabur Pharma Limited (together "Fresenius"), (9) Sun Pharmaceutical Industries Ltd. and Caraco Pharmaceutical Laboratories, Ltd. (together "Sun"), (10) EBEWE Pharma Ges.m.b.H Nfg KG ("EBEWE"), and (11) Mustafa Nevzat Ilac Sanayii A.S. (a/k/a MN Pharmaceuticals), Par Pharmaceutical Companies, Inc., and Par Pharmaceutical, Inc. (collectively, "MN and Par"), and for the reasons set forth in its Opinion and Order, and having considered judicial administrative interests as well as the interests of the parties and finding that no just reason exists to delay the entry of Final Judgment under Rule 54(b) and no just reason exists to delay the appeal of this Final Judgment in that plaintiffs' claims of infringement of the '874 Patent be and hereby shall have been adjudicated to have been resolved, and finding that this Final Judgment disposes of and is final with respect to plaintiffs' claims of infringement of the '874 patent, and finding that the claims adjudicated herein are separable from any other claims, and good cause having been shown;

IT IS on this 30th day of June 2009,

ORDERED AND ADJUDGED as follows:

1. That Final Judgment be and hereby shall be entered *nunc pro tunc* as of June 18, 2009, the date of the Court's Order, in favor of Mayne, Sandoz, Teva, Barr, Heraeus, APP, Actavis, Fresenius, Sun, EBEWE, and MN and Par and against plaintiffs, dismissing with prejudice

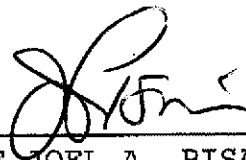
a. plaintiffs' Complaints in their entirety as to Mayne (Civil Action Nos. 07-3409, 07-4550), Teva (Civil Action Nos. 07-2837, 07-3144, 07-5408), Barr (Civil Action No. 08-0079), Heraeus (Civil Action No. 08-2048), APP (Civil Action No. 07-3163), and Actavis (Civil Action No. 07-3142), EBEWE (Civil Action Nos. 08-6243, 09-1116); and

b. plaintiffs' Complaints as to the '874 Patent as to Sandoz (Civil Action Nos. 07-2762, 08-2693), Fresenius (Civil Action No. 07-2854), Sun (Civil Action No. 07-3411), EBEWE (Civil Action No. 07-3164), MN and Par (Civil Action Nos. 07-3143, 08-0263), and APP (Civil Action No. 08-2019);

because the products subject to 505(b)(2) NDA 22-160 and ANDAs 78-813, 78-815, 78-810, 78-811, 78-820, 78-943, 78-818, 78-817, 78-812, 90-849, 78-816, 78-803, 78-819, and 90-030 do not infringe any claims of the '874 Patent;

2. That in the event that plaintiffs file an appeal from this Final Judgment, any motion for attorneys' fees and/or costs under Fed. R. Civ. P. 54(d) and Local Civil Rules 54.1-54-2, including any related discovery, to which defendants are entitled in connection with their claim that this case is exceptional under 35 U.S.C. § 285, shall be considered timely filed if filed and served within thirty (30) days after final disposition of any such appeal; and

3. This Final Judgment specifically excludes the Court's ruling on the anticipation issue contained in the Court's June 18, 2009 Opinion and Order.



HONORABLE JOEL A. PISANO, U.S.D.J.