

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MEDA PHARMACEUTICALS INC. and)
CIPLA LTD.,)
)
Plaintiffs,) C.A. No. 14-1453-LPS
)
v.)
)
APOTEX INC. and APOTEX CORP.,)
)
Defendants.)

APOTEX'S OBJECTIONS TO PLAINTIFFS' TECHNOLOGY TUTORIAL

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Dated: December 23, 2015
1212676 / 42112

In advance of the technology tutorial set in this matter and Pursuant to paragraph 10 of the Scheduling Order entered by the Court on April 13, 2015 (D.I. 18), Defendants Apotex Inc. and Apotex Corp. (“Apotex”) hereby respectfully submit this response to address certain objectionable material included in Meda Pharmaceuticals Inc.’s and Cipla Ltd.’s (together, “Plaintiffs”) technology tutorial and any related oral presentation that Plaintiffs may provide with respect to the technology tutorial.

I. Introduction

Apotex objects to Plaintiffs’ tutorial because they contain argument, rather than scientific explanation or discussion, in contravention of the Court’s scheduling order. The Scheduling Order (D.I. 18) explicitly states that “the tutorial should focus on the technology at issue and should not be used for argument.” (D.I. 18 at ¶10). Plaintiffs’ materials however contain 5 slides that merely incorporate argument from Plaintiff’s claim construction brief regarding interpretation of claim terms and claim scope. All of these matters are best addressed in briefing and /or argument rather than surreptitiously included in Plaintiffs’ technology tutorial.

II. Specific Objections

Slide No 3: This slide makes disputed factual allegations about the scope of the patents and improperly states that the patents are directed to formulations useful for preventing or minimizing allergic reactions, whereas the patents are broader than that and pertain to any condition where an antihistamine or steroid is indicated. Further, Plaintiffs suggest disputed claim construction related to the technology that at best would be the subject of a scheduled claim construction hearing. Apotex objects to this slide (and any oral presentation plaintiffs have set forth with regard to the same information) in its entirety on the grounds that it is argumentative, it is misleading and factually inaccurate, it misstates what the claimed technology

is, it improperly and prematurely makes a disputed claim construction argument, and it exceeds the agreed upon scope of the technology tutorial. The undersigned respectfully requests that the Court exclude this slide and any oral presentation related thereto. A true and correct copy of that slide is attached hereto as Ex. A.

Slide Nos. 7 and 8: These slides make disputed factual allegations about the impact of allergic rhinitis and do not pertain to the technology in question. Apotex objects to these slides (and any oral presentation plaintiffs have set forth with regard to the same information) in its entirety on the grounds that it is argumentative, is misleading and it exceeds the agreed upon scope of the technology tutorial. The alleged costs associated with allergic rhinitis is in no way relevant to the technology in question. The undersigned respectfully requests that the Court exclude these slides and any oral presentation related thereto. A true and correct copy of slide Nos. 7-8 are attached hereto as Ex. B and Ex. C respectively.

Slide No 21: This slide makes disputed factual allegations about the scope of the patents and improperly states that the patents are directed to a single formulation when the patents expressly state that the invention can be in separate formulations given separately or sequentially. Further, it argues disputed claim construction related to the technology that at best would be the subject of a scheduled claim construction hearing. Apotex objects to this slide (and any oral presentation plaintiffs have set forth with regard to the same information) in its entirety on the grounds that it is argumentative, it is misleading and misstates scope of the claimed technology and it exceeds the agreed upon scope of the technology tutorial. The undersigned respectfully requests that the Court exclude this slide and any oral presentation related thereto. A true and correct copy of that slide is attached hereto as Ex. D.

Slide No. 25: This slide improperly touts the benefits of Plaintiffs NDA product which is an alleged embodiment of the patents at issue. This slide makes disputed factual allegations about the scope of the patents and improperly states that the patents are solely directed to a single formulation when the patents expressly state that the invention can be in separate formulations given separately or sequentially. Further, it argues disputed claim construction related to the technology that at best would be the subject of a scheduled claim construction hearing. The undersigned respectfully requests that the Court exclude this slide and any oral presentation related thereto. A true and correct copy of that slide is attached hereto as Ex. E.

Respectfully submitted

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