

**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.	)	

**AMENDED JOINT CLAIM CONSTRUCTION CHART**

On January 20, 2016, the parties submitted a letter to the Court informing it of the likely addition of a new patent to this case. The parties jointly requested that the Court adjourn the *Markman* hearing until after the new patent issued and was added to the case. As a result of this letter, the Court adjourned the *Markman* hearing until April 29, 2016 and ordered the parties to limit any supplemental claim construction briefing “exclusively to new claim terms and claim construction issues arising from the issuance of” the application that issued as U.S. Patent No. 9,259,428 (“the ’428 patent”). The parties respectfully submit this Amended Joint Claim Construction Chart to apprise the Court of new claim terms and new claim construction issues arising from the issuance of the ’428 patent.

As part of their discussions regarding the ’428 patent, the parties have agreed to the following construction:

Term	Claims	Construction
“one or more isotonic agents is present in an amount that a reduction in the freezing point from 0.50° C. to 0.56°C is attained in comparison to pure water”	12 and 25 of the ’428 patent	“one or more isotonic agents are present in amounts that cause a total freezing point reduction of 0.50° C. to 0.56° C. in the nasal spray formulation in comparison to pharmaceutical-grade water”

As before, the parties have agreed not to present expert discovery in the briefs, at the *Markman* hearing, or in their respective technology tutorials. The parties reserve the right to alter their constructions based on further discovery and their continuing analysis. Each party's citations shall not be construed so as to prohibit the parties from addressing the opposing party's designations.

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## EXHIBIT A

**Exhibit A**  
**Disputed Terms and Proposed Constructions<sup>1</sup>**

Term	Term/Phrase	Asserted Patent Claim(s)	Plaintiffs' Proposed Construction and Intrinsic Evidence	Defendants' Proposed Construction and Intrinsic Evidence
1	"condition(s)"	'723 patent: 1-4, 7, 8, 10-18, 20-28  '620 patent: 16, 17, 24	<p><b><u>Proposed Construction</u></b></p> <p>"condition(s) resulting in or causing allergic reaction(s)"</p> <p><b><u>Intrinsic Evidence</u></b></p> <p><b>'723 patent</b> (MED_DYM_00018010-MED_DYM_00018025): abstract, 1:19-62; 1:66-2:5; 2:16-31; 3:27-32; 3:38-41; 4:7-32; 4:41-53; 4:61-5:4; 5:47-6:2; 6:10-28; 7:1-27; 7:53-64; 8:5-11:47 (Examples 1-14); claims 1, 4-9, 17, 25.</p> <p><b>'723 patent PH:</b> MED_DYM_11300-MED_DYM_00011301 (November 23, 2011 Examiner-Initiated</p>	<p><b><u>Proposed Construction</u></b></p> <p>Plain and ordinary meaning.</p> <p>To the extent the Court determines that this term requires construction, Apotex proposes the following construction: "disease(s) or illness(es)."</p> <p><b><u>Intrinsic Evidence</u></b></p> <p>'723 patent: Col. 1:35-62; 2:15-26; 4:41-54; 5:46-58; 6:46-54; 7:19-64; claims 1-4, 7, 8, 10-18, 20-28; MED_DYM_00018010-18025</p> <p>'620 patent: Col. 1:26-33; 2:15-27; 4:41-54; 5:47-59; 6:46-54; 7:19-64; claims 16, 17, 24; MED_DYM_00018026-18041</p>

<sup>1</sup> For all citations, the parties incorporate the corresponding passages in the other patent that are substantially duplicative of the specification, figures and abstract citations cited.

			<p>Interview Summary).</p> <p>MED_DYM_00014516- MED_DYM_00014525 (December 12, 2011 Preliminary Amendment).</p> <p>MED_DYM_00017819- MED_DYM_00017826 (January 26, 2012 Notice of Allowance), <i>see specifically</i> MED_DYM_00017823, MED_DYM_00017825.</p> <p><b>'620 patent</b> (MED_DYM_00018026- MED_DYM_00018041): abstract, 1:10-60; 2:15-30; 3:25-30; 3:36-39; 4:7-32; 4:41-53; 4:61-5:4; 5:48-6:3; 6:11-28; 7:1-27; 7:53-64; 8:4-11:43 (Examples 1-11 and unnumbered Examples); claims 1, 7, 9, 13-17, 19, 24, 25, 28-30, 47-48.</p> <p><b>'620 patent PH:</b></p> <p>MED_DYM_00000002- MED_DYM_00000043 (Transmittal of New Application and PCT/GB03/02557).</p> <p>MED_DYM_00000254- MED_00000275 (January 23, 2009 Office Action), <i>see specifically</i> MED_DYM_00000266,</p>	<p>U.S. Patent App. Pub. 2009/0291143, pp. 1-4, APOTEX_AZFL 0053674-53681</p> <p>U.S. Patent App. Pub. 2009/0318397, pp. 1-4, APOTEX_AZFL 0053682-689</p> <p>U.S. Patent No. 2,837,464, Col. 2, 5; APOTEX_AZFL 0053838-848</p> <p>U.S. Patent No. 3,067,197 Col. 10; APOTEX_AZFL 0053849-859</p> <p>U.S. Patent Application No. 12/879,515, August 16, 2011 Declaration of Dr. Sujeet Rajan, pp. 1-5; APOTEX_AZFL 0061477-481</p> <p>U.S. Patent Application No. 10/518,016 filed as PCT No. PCT/GB03/02557 (WO 03/105856) Original Application, pp. 1, 5-10, 19-23; MED_DYM_0000020-000043</p> <p>PCT application EP02/02317 (WO 02/070490 AI) (published 9/12/02) pp.1-97, MED_DYM_00000143 to 240 at 155</p> <p>July 23, 2009 Response to Office Action, pp. 11-18; MED_DYM_0000288-306</p>
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