

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HOSPIRA, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 15-697-RGA
)	
AMNEAL PHARMACEUTICALS LLC,)	
)	
Defendant.)	

~~PROPOSED~~ ORDER REGARDING DISSOLUTION OF FEBRUARY 6, 2018
INJUNCTION AGAINST AMNEAL

Upon consideration of the stipulation between Hospira, Inc. and Amneal Pharmaceuticals LLC regarding this Court’s injunction of February 6, 2018 (D.I. 121 at 2, the “Injunction”);

In recognition of the fact that the United States Court of Appeals for the Federal Circuit on January 9, 2020, held invalid claim 6 of U.S. Patent No. 8,648,106 (“the ’106 patent”) in *Hospira Inc. v. Fresenius Kabi USA, LLC*, Fed. Cir. 2019-1329, 2019-1367;

In recognition that issuance by the Federal Circuit of a mandate on that decision would be a final judgment of such invalidity of claim 6 of the ’106 patent;

In recognition of the fact that this Court’s February 6, 2018, judgment and injunction against Amneal was based solely on infringement of claim 6 of the ’106 patent”; and

In recognition that the Court’s February 6, 2018 Injunction stated:

That, pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any approval by the U.S. Food and Drug Administration ("FDA") of Amneal's ANDA No. 207551 shall be not earlier than the expiration of the '106 patent on July 4, 2032, as extended by pediatric exclusivity; and

That, pursuant to 35 U.S.C. §§ 271(e)(4)(B), Amneal and each of its officers, agents, or other entities in active concert with Amneal are permanently enjoined until the expiration of the '106 patent, as extended by pediatric exclusivity, on July 4, 2032, from engaging in the commercial manufacture, use, offer to sell, or sale within the United States, or


importation into the United States, of the products that are the subject of ANDA No. 207551.

(D.I. 121 at 2.); it is hereby

ORDERED that this Court's Injunction with respect to Amneal's Abbreviated New Drug Application ("ANDA") No. 207551 shall be dissolved upon entry of a mandate arising from the Federal Circuit's affirmance of invalidity of claim 6 of the '106 patent; and

ORDERED that Amneal may provide this Order and Stipulation to the Food and Drug Administration in connection with seeking Final Approval.

SO ORDERED this 5 day of February, 2020.


United States District Judge