

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

HOSPIRA, INC.,)	
)	
Plaintiff,)	Docket No. 16 C 651
)	
vs.)	
)	
FRESENIUS KABI USA, LLC,)	Chicago, Illinois
)	December 11, 2017
Defendant.)	9:20 a.m.

TRANSCRIPT OF PROCEEDINGS - Status
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES:

For the Plaintiff:	JENNER & BLOCK LLP BY: MS. SARA T. HORTON MR. YUSUF ESAT 353 North Clark Street Chicago, Illinois 60654
For the Defendant:	SCHIFF HARDIN LLP BY: MR. JOEL M. WALLACE 233 South Wacker Drive, Suite 6600 Chicago, Illinois 60606
Court Reporter:	FRANCES WARD, CSR, RPR, RMR, FCRR Official Court Reporter 219 S. Dearborn Street, Suite 2144D Chicago, Illinois 60604 (312) 435-5561 frances_ward@ilnd.uscourts.gov

1 THE CLERK: 16 C 651, Hospira versus Fresenius Kabi
2 USA for status.

3 MS. HORTON: Good morning, your Honor.
4 Sara Horton and Yusuf Esat for Hospira.

5 THE COURT: Good morning.

6 MR. WALLACE: Joel Wallace on behalf of Fresenius
7 Kabi.

8 THE COURT: Good morning.

9 Okay. We are here for status. What's our status?

10 MS. HORTON: Your Honor, the status is that you
11 issued a *Markman* ruling about a month ago.

12 THE COURT: Right.

13 MS. HORTON: And in the interim, also, Hospira
14 filed suit on a related patent against Fresenius Kabi, and
15 then the parties agreed to file a joint consolidation motion,
16 which you granted.

17 THE COURT: Correct.

18 MS. HORTON: So we have that added into this case.

19 In its answer, Fresenius Kabi counter-claimed
20 adding an additional patent. So there are now two additional
21 patents, aside from the four that were involved in the
22 underlying case -- the first case, I should say.

23 We have discussed with Fresenius Kabi a schedule
24 going forward and how to work these other two patents into
25 the case.

1 THE COURT: These are patents held by Fresenius
2 Kabi?

3 MS. HORTON: No. Held by Hospira.

4 THE COURT: Held by Hospira. Okay.

5 So the counterclaim is for invalidity?

6 MS. HORTON: The counterclaim is for invalidity. I
7 believe we have not yet answered the counterclaim. But
8 it's -- in short, it's a patent that issued sometime between
9 the time that Hospira first sued Fresenius Kabi and between
10 the second case that we filed against them. And I believe
11 Fresenius just wants it litigated all at the same time.

12 THE COURT: Sure. Okay. We did grant the motion
13 for reassignment. Remind me of the number of that case so I
14 can get them both on the same track. We will assume this is
15 a status in that case as well.

16 MR. WALLACE: The other case was 17 CV 7903.

17 THE COURT: Okay. So this will -- today's status
18 will be deemed a status in 17 C 7903 as well.

19 Does that include the -- that includes the same
20 patents that are at issue in this case.

21 MS. HORTON: Yes.

22 MR. WALLACE: It includes only two more patents
23 that were part of the same family of the four patents that
24 are in the original case. And there are two more patents
25 from the same family, same inventor, same specification that

1 issued later, and those have now been all consolidated.

2 The parties have agreed that the claim construction
3 from the first case applies to the later, because they
4 share -- all of the -- I guess two of the terms are in all of
5 the patent claims as well.

6 THE COURT: And does the addition of two patents in
7 the original case -- actually, does the addition of any of
8 these patents involve additional claims as well?

9 MS. HORTON: Additional claim terms?

10 THE COURT: Additional claim terms, yes.

11 MS. HORTON: Yes, your Honor, they do. It's
12 unclear, to Hospira at least, whether or not there will need
13 to be additional claim construction briefing. We actually
14 assume that there will not be, but we haven't done any
15 discovery on them yet to understand that.

16 THE COURT: All right. Well, what we need to do,
17 then, is get a revised Rule 16 schedule in place based
18 upon -- I am assuming you are going to at least factor in the
19 local patent rule schedule, but recognizing that some of the
20 things that have happened already would eliminate that need
21 in this case.

22 So can we set a date for that to happen, for you to
23 develop a proposed schedule?

24 MR. WALLACE: We have discussed a proposed
25 schedule. Right now this is the overarching situation. It's

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