

H155kowC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 KOWA COMPANY, LTD., *et al.*,

4 Plaintiffs,

New York, N.Y.

5 v.

6 AMNEAL PHARMACEUTICALS, LLC.
7 *et al.*,

8 Defendants.

14 Civ. 2758 (PAC)
14 Civ. 2759 (PAC)
14 Civ. 2760 (PAC)
14 Civ. 5575 (PAC)
14 Civ. 7934 (PAC)
15 Civ. 3935 (PAC)

9 -----x
10 January 5, 2017
11 2:30 p.m.

12 Before:

13 HON. PAUL A. CROTTY,

14 District Judge
15
16
17
18
19
20
21
22
23
24
25

H155kowC

APPEARANCES

1
2 MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
Attorneys for Plaintiffs

3 BY: JENNIFER L. DEREKA
4 DAVID G. CONLIN
KATHLEEN B. CARR
ADAM PHILLIP SAMANSKY

5
6 MADDOX EDWARDS, PLLC
Attorneys for Defendants Amneal and Apotex
BY: STEVEN A. MADDOX

7
8 ALSTON & BIRD, LLP
Attorneys for Defendant Orient
BY: NATALIE C. CLAYTON
9 FRANK G. SMITH
YI WEN WU
10 SHRI M. ABHYANKAR

11 WHITERS BERGMAN, LLP
Attorneys for Defendants Zydus and Cadila
12 BY: STEVEN J. MOORE
JAMES E. NEALON

13
14 SUGHRUE MION, PLLC
Attorneys for Defendant Sawai
BY: AZY S. KOKABI
15 CHIDAMBARAM S. IYER

-AND-

16 FLEMMING, ZULACK, WILLIAMSON, ZAUDERER, LLP
BY: CRAIG S. KESCH

17
18 KELLEY DRYE & WARREN, LLP
Attorneys for Defendant Lupin
BY: BETH D. JACOB
19 DOUGLASS C. HOCHSTETLER
MALAVIKA A. RAO
20

H155kowC

1 (Case called)

2 THE DEPUTY CLERK: Counsel for plaintiffs, please
3 state your appearances.

4 MS. DEREKA: Good afternoon, your Honor. Jennifer
5 Dereka from Mintz Levin, here on behalf of plaintiffs Kowa
6 Company Ltd, et al. Here with me today to my immediate right,
7 Kathleen Carr.

8 THE COURT: Ms. Carr.

9 MS. CARR: Good afternoon, your Honor.

10 MS. DEREKA: David Conlin.

11 THE COURT: Mr. Conlin.

12 MR. CONLIN: Your Honor.

13 MS. DEREKA: And Adam Samansky.

14 MR. SAMANSKY: Good afternoon.

15 THE COURT: Mr. Samansky.

16 THE DEPUTY CLERK: For defendants, beginning with
17 Amneal Pharmaceuticals.

18 MR. MADDOX: Good afternoon, your Honor. Steven
19 Maddox from Maddox Edwards for defendant Amneal Pharmaceutical
20 Company and also for Apotex.

21 THE COURT: You are substituted in today?

22 MR. MADDOX: Yes.

23 THE COURT: Thank you, Mr. Maddox.

24 THE DEPUTY CLERK: For Orient Pharmaceuticals.

25 MS. CLAYTON: Good afternoon, your Honor. Natalie

SOUTHERN DISTRICT REPORTERS P. C.

H155kowC

1 Clayton with Alston & Bird for Orient. With me today is my
2 partner Frank Smith from the Atlanta office.

3 THE COURT: Hello, Mr. Smith. Nice to see you again.

4 MR. SMITH: Nice to see you, your Honor.

5 MS. CLAYTON: Shri Abhyankar and Wen Wu.

6 THE COURT: Thank you.

7 THE DEPUTY CLERK: For Zydus?

8 MR. MOORE: Steven Moore for Zydus Pharmaceuticals,
9 USA, Cadila Healthcare, and with my colleague James Nealon.

10 THE DEPUTY CLERK: For Sawai?

11 MS. KOKABI: Good afternoon. My name is Azy Kokabi
12 for Sawai Pharmaceuticals of Sughrue Mion, and with me today is
13 my partner Chid Iyer, and also Craig Kesch from the law firm of
14 Flemming Zulack.

15 THE COURT: Thank you, Ms. Kokabi.

16 THE DEPUTY CLERK: And for Lupin?

17 MS. JACOB: Your Honor, Beth Jacob of Kelley, Drye &
18 Warren, and with me is Douglass Hochstetler, Constantine
19 Koutsoubas and Malavika Rao.

20 THE COURT: Thank you, Ms. Jacob.

21 The first thing I would like to take up is the motions
22 *in limine*. I have read all the papers and I am prepared to
23 rule. Does anybody want to argue?

24 MS. CLAYTON: We have prepared short argument on the
25 MILs that the defendants have filed, if the Court wishes to

H155kowC

1 hear them.

2 THE COURT: I have read all the papers. Unless you
3 are going to add something new rather than emphasizing points
4 that you have already made.

5 MS. CLAYTON: For Orient, your Honor, we can rest on
6 the papers. Some of the other defendants had some other issues
7 that they raised. I would just make sure that they don't have
8 anything to add.

9 MR. MADDOX: Nothing for Amneal or Apotex.

10 MR. MOORE: For Zydus Pharmaceuticals, we wanted to
11 add in a copy of the Phillips v. AWH Corporation case which I
12 think answers the entire question and fact that the federal
13 circuit actually defines the ordinary and clear meaning of a
14 term as being deemed to have the expert having read the
15 specification and that's what this whole argument was about.
16 If I can hand that up to the Court?

17 THE COURT: Yes.

18 Mr. Samansky?

19 MR. SAMANSKY: Your Honor, with respect to that same
20 motion, I think it is fair to say we disagree with counsel's
21 characterization of the Phillips case. We also noticed there
22 was one page missing from the reply declaration. We can hand a
23 copy of that missing page up if the Court would desire, or take
24 care of that after the hearing.

25 THE COURT: I didn't notice the one page that was

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.