

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

BAUSCH & LOMB INCORPORATED,  
BAUSCH & LOMB PHARMA HOLDINGS  
CORP. and SENJU PHARMACEUTICAL CO.,  
LTD.,

Plaintiffs,

v.

METRICS, INC., COASTAL  
PHARMACEUTICALS, INC., MAYNE  
PHARMA GROUP LIMITED, and MAYNE  
PHARMA (USA), INC.,

Defendants.

Civil Action No. 1:14-cv-03962-JBS-KMW

**STIPULATED CONSENT JUDGMENT AND INJUNCTION**

Whereas the parties in the above-captioned action have agreed to terms and conditions representing a negotiated settlement of this action and have set forth those terms and conditions in a Confidential Settlement and License Agreement (the "Settlement Agreement"),

IT IS HEREBY STIPULATED AND AGREED, by and between the parties, through their undersigned counsel of record, that:

1. In the event that the claims of Plaintiffs' ("the '431 patent"), U.S. Patent No. 8,669,290 ("the '290 patent"), U.S. Patent No. 8,754,131 ("the '131 patent"), U.S. Patent No. 8,871,813 ("the '813 patent"), and U.S. Patent No. 8,927,606 ("the '606 patent") asserted against Defendants are not held invalid or unenforceable and in the absence of a license or other authorization from Plaintiffs, the '431, '290, '131, '813, and '606 patents are valid, enforceable,

and would be infringed by any unlicensed manufacture, sale, offer for sale, use, or importation in the United States of the generic product that is the subject of Defendants' Abbreviated New Drug Application Number 206257 (the "Metrics Product", as defined in the Settlement Agreement).

2. Defendants and anyone acting on the behalf of any of Defendants, except as expressly licensed by Plaintiffs in the Settlement Agreement, will be enjoined until expiration of the '431, '290, '131, '813, and '606 patents (or as otherwise provided in the Settlement Agreement) from (i) making, using, offering to sell, selling, or importing into the United States of America the Metrics Product, and (ii) participating in the profits from making, using, offering to sell, selling, or importing the Metrics Product in the United States, and (iii) indemnifying others with respect to any making, using, offering to sell, selling, or importing the Metrics Product in the United States.

3. Notwithstanding any provision of the foregoing, Defendants shall be entitled to contest the infringement, validity and/or enforceability of the '431, '290, '131, '813 and '606 patents in any future litigation, patent office proceeding, or otherwise over the '431, '290, '131, '813 or '606 patents pertaining to any product that is not the Metrics Product and is not the subject of the Metrics ANDA (as defined in the Settlement Agreement).

4. Each party will bear its own attorneys' fees and costs.

5. This Court will retain jurisdiction to enforce this Stipulated Consent Judgment and Injunction and the parties' related agreements resolving this matter.

6. Plaintiffs acknowledge that Defendants are entitled to maintain their Paragraph IV certification to the '431, '290, '131, '813, and '606 patents pursuant to 21 C.F.R. § 314.94(a)(12)(v). Each Party acknowledges and agrees that the 30-month stay with respect to the approval of the Metrics ANDA under 21 U.S.C. § 355(j)(5)(B)(iii) is hereby terminated.

7. The Clerk of Court is directed to enter this Stipulated Consent Judgment and Injunction.

Dated: June 30, 2015

PEPPER HAMILTON

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*Attorneys for Defendants*

*METRICS, INC.*

So Ordered this 30<sup>th</sup> day of June, 2015

  
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Jerome B. Simandle, Chief U.S. District Judge