

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

Liza M. Walsh, Esq.
CONNELL FOLEY LLP
85 Livingston Avenue
Roseland, New Jersey 07068-1765
(973) 535-0500

Of Counsel:
William E. Solander, Esq.
Jason A. Leonard, Esq.
FITZPATRICK, CELLA, HARPER & SCINTO
1290 Avenue of the Americas
New York, NY 10104-3800
(212) 218-2100

Attorneys for Plaintiffs,
SANOFI-AVENTIS U.S. LLC, AVENTIS PHARMA S.A. and SANOFI

SANOFI-AVENTIS U.S. LLC,
AVENTIS PHARMA S.A. and
SANOFI

Plaintiffs,

v.

BRECKENRIDGE PHARMACEUTICAL,
INC.

Defendant.

C.A. No.: _____

Electronically Filed

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs Sanofi-Aventis U.S. LLC (hereinafter “Sanofi U.S.”), Aventis Pharma S.A. (hereinafter “Aventis”) and Sanofi (collectively, “Plaintiffs”) for their Complaint against defendant Breckenridge Pharmaceutical, Inc. (hereinafter “Breckenridge” or “Defendant”)

hereby allege as follows:

THE PARTIES

1. Plaintiff Sanofi U.S. is a U.S. subsidiary of Sanofi and is a company organized and existing under the laws of the State of Delaware, having commercial headquarters at 55 Corporate Drive, Bridgewater, New Jersey 08807.

2. Plaintiff Aventis is a corporation organized and existing under the laws of France, having its principal place of business at 20 avenue Raymond Aron, 92160 Antony, France.

3. Plaintiff Sanofi is a corporation organized and existing under the laws of France, having its principal place of business at 54 rue La Boétie, 75008 Paris, France.

4. Plaintiff Sanofi is a global research-driven pharmaceutical company that discovers, develops, manufactures and markets a broad range of innovative products to improve human and animal health.

5. On information and belief, Breckenridge is a corporation organized and existing under the laws of Florida, having its principal place of business at 6111 Broken Sound Parkway, NW, Suite 170, Boca Raton, Florida 33487.

6. On information and belief, Breckenridge assembled and caused to be filed with the United States Food and Drug Administration (“FDA”), pursuant to 21 U.S.C. § 355(j) (Section 505(j) of the Federal Food, Drug and Cosmetic Act), Abbreviated New Drug Application (“ANDA”) No. 207619 (hereinafter “the Breckenridge ANDA”) concerning a proposed drug product, cabazitaxel solution, IV, 60 mg/1.5 mL (40 mg/mL) (“Breckenridge’s Proposed ANDA Product”).

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States of America. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Breckenridge. On information and belief, Breckenridge maintains a sales office at 1 Passaic Avenue, Fairfield, New Jersey 07004. On information and belief, Breckenridge's New Jersey office is registered as a domestic business entity with the New Jersey Department of Treasury under the business entity identification number 0100189565 under entity name Breckenridge Inc. On information and belief, Breckenridge Inc. maintains a corporate agent for service of process at 600 College Road East, Princeton, New Jersey 08540. On information and belief, Breckenridge Inc. conducts business in New Jersey under the alternate name Breckenridge Pharmaceutical Inc. On information and belief, Breckenridge Pharmaceutical Inc. is registered as a foreign business entity with the New Jersey Department of Treasury under the business entity identification number 0100973602. On information and belief, Breckenridge Pharmaceutical Inc. maintains a corporate agent for service of process at 811 Church Road #105, Cherry Hill, New Jersey 08002. On information and belief, Breckenridge Inc. is an agent, affiliate or subsidiary of Breckenridge. On information and belief, Breckenridge Pharmaceutical Inc. is an agent, affiliate or subsidiary of Breckenridge.

9. On information and belief, Breckenridge is in the business of manufacturing and marketing "a broad range of generic prescription products in many therapeutic categories." Breckenridge Home Page available at <http://www.bpirx.com/html/index.aspx?page=home>. (last visited December 18, 2014). On information and belief, Breckenridge "plan(s) to file more than 12 ANDA's . . . on an annual

basis.” Breckenridge Business Development Page available at <http://www.bpirx.com/html/index.aspx?p32sda=businessdevelopment&psdge87d=295&tl97abi=> 16. (last visited December 18, 2014). On information and belief, Breckenridge conducts “sales marketing and distribution to all classes of trade in all 50 states” Breckenridge Business Development Page available at <http://www.bpirx.com/html/index.aspx?p32sda=businessdevelopment&psdge87d=295&tl97abi=> 16. (last visited December 18, 2014).

10. On information and belief, Breckenridge directly or through its affiliates and agents develops, formulates, manufactures, markets, imports and sells pharmaceutical products, including generic drug products, which are copies of products invented and developed by innovator pharmaceutical companies, throughout the United States, including in this Judicial District. On information and belief, Breckenridge holds an active wholesale drug and medical device license for the State of New Jersey under License No. 5002974.

11. On information and belief, Breckenridge has affiliations with the State of New Jersey that are pervasive, continuous, and systematic. On information and belief, Breckenridge engages in direct marketing, distribution, and/or sale of generic pharmaceutical drugs within the State of New Jersey and to the residents of the State of New Jersey, and maintenance of corporate agents in the State of New Jersey.

12. On information and belief, Breckenridge regularly conducts and/or solicits business in the State of New Jersey, engages in other persistent courses of conduct in the State of New Jersey, and/or derives substantial revenue from services or things used or consumed in the State of New Jersey.

13. On information and belief, Breckenridge has previously submitted to the jurisdiction of this Court and has availed itself of the legal protections of the State of New Jersey, having asserted claims in this jurisdiction, including in the matter of *Breckenridge Pharmaceutical, Inc. v. Sonar Products, Inc.*, Civil Action No. 2:10-cv-03921 (WHM)(MCA) (D.N.J. Aug. 2, 2010). On information and belief, Breckenridge has previously submitted to the jurisdiction of this Court and has availed itself of the legal protections of the State of New Jersey, having asserted counterclaims in this jurisdiction, including in the matters of *Everett Laboratories, Inc. v. Breckenridge Pharmaceutical, Inc.*, Civil Action No. 2:09-cv-00177 (JLL)(CCC), D.I. 28 at 1-2, 7-9 (D.N.J. Mar. 20, 2009); *Everett Laboratories, Inc. v. Breckenridge Pharmaceutical, Inc.*, Civil Action No. 2:08-cv-03156 (JLL)(CCC), D.I. 21 at 1-2, 7-11 (D.N.J. Aug. 1, 2008); *Novartis Pharmaceuticals Corp. et al. v. Breckenridge Pharmaceutical, Inc.*, Civil Action No. 2:06-cv-04199 (FSH), D.I. 3 at 2, 5-8 (D.N.J. Sep. 26, 2006); and *Bradley Pharmaceuticals, Inc. v. Breckenridge Pharmaceutical, Inc.*, Civil Action No. 2:06-cv-02442 (SDW)(MCA), D.I. 5 at 3-6 (D.N.J. Aug. 24, 2006).

14. Breckenridge is also subject to personal jurisdiction in the State of New Jersey because, *inter alia*, Breckenridge has committed, aided, abetted, contributed to, and/or participated in the commission of a tortious act of patent infringement under 35 U.S.C. § 271(e)(2) that has led and/or will lead to foreseeable harm and injury to Plaintiff Sanofi U.S., having commercial headquarters in the State of New Jersey. Breckenridge sent its December 2, 2014 Paragraph IV Notice Letter to Sanofi U.S.'s commercial headquarters at 55 Corporate Drive, Bridgewater, New Jersey 08807. Plaintiffs's cause of action arose from Breckenridge's contact with Sanofi U.S. in Bridgewater, New Jersey. Breckenridge states that it intends to engage in the commercial manufacture, use, and/or sale of Breckenridge's Proposed ANDA

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.