

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ALLERGAN, INC.,

Plaintiff,

v.

**TEVA PHARMACEUTICALS USA, INC.,
et al.,**

Defendants.

Civil Action No. 2:15-cv-1455 WCB LEAD
Civil Action No. 2:15-cv-1504 WCB
Civil Action No. 2:16-cv-0401 WCB

JURY TRIAL DEMANDED

JOINT PRE-TRIAL ORDER

This cause came before the Court at a pre-trial management conference held on August 1, 2017, pursuant to the 13th Amended Docket Control Order (Dkt. No. 361) and Rule 16 of the Federal Rules of Civil Procedure.

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B. STATEMENT OF JURISDICTION

This civil case is brought before the United States District Court for the Eastern District of Texas. This action arises under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.* and the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202, and Plaintiff-Counterclaim Defendant Allergan, Inc. (“Allergan”) asserts that subject matter jurisdiction of this Court exists under at least 28 U.S.C. §§ 1331, 1338(a) and 2201-02.

The Defendant-Counterclaim Plaintiffs Akorn Inc. (“Akorn”), Famy Care Ltd. (“Famy Care”), InnoPharma, Inc. (“InnoPharma”), Mylan Pharmaceuticals, Inc., Mylan, Inc. (collectively, “Mylan”), and Teva Pharmaceuticals USA, Inc. (“Teva”), (collectively, “Defendants”) deny that the court has subject matter jurisdiction for the reasons set forth in Defendants’ Motion to Dismiss for Lack of Standing, or in the Alternative for Summary Judgment of Invalidity under 35 U.S.C. § 102(f) and the associated briefs and exhibits.

Further, Mylan previously filed a motion to dismiss the complaint for lack of personal jurisdiction and improper venue (Doc. No. 32). The Court denied the motion (Doc. No. 130). Nevertheless, Mylan maintains its challenges to personal jurisdiction and venue in this Court (*see* Doc. No. 102). Mylan contends that it is not subject to personal jurisdiction in the Eastern District of Texas. *Daimler AG v. Bauman*, 134 S. Ct. 746, 754 (2014). In addition, Mylan contends that venue is not proper in this judicial district under 28 U.S.C. § 1400(b) and denies any allegation that it has waived any objection to venue.

Allergan alleges that personal jurisdiction and venue are proper, and that Mylan waived any defense of lack of personal jurisdiction or improper venue by continuing to litigate this case. Other than Mylan, Defendants do not contest personal jurisdiction or venue in this Court solely for the purpose of this action.

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