

1 APPEARANCES: (Continued)

2 PAUL HASTINGS, LLP
3 BY: MELANIE R. RUPERT, ESQ.,
4 DAVID M. CONCA, ESQ.,
5 NICHOLAS A. TYMOCZKO, ESQ.,
6 JOSEPH O'MALLEY, ESQ.,
7 SCOTT F. PEACHMAN, ESQ.,
8 ANDREW J. COCHRAN, ESQ., and
9 MI ZHOU, ESQ.
10 (New York, New York)

11
12 Counsel for Plaintiffs Valeant
13 Pharmaceuticals International, and
14 Valeant Pharmaceuticals Luxembourg S.A.R.L.

15 MORRIS NICHOLS ARSHT & TUNNELL, LLP
16 BY: MARYELLEN NORIEKA, ESQ.

17 and

18 IRELL & MANELLA, LLP
19 BY: GARY FRISCHLING, ESQ., and
20 YITE JOHN LU, ESQ.
21 (Los Angeles, California)

22 Counsel for Plaintiff Cosmo
23 Technologies Limited

24 PHILLIPS GOLDMAN McLAUGHLIN & HALL, P.A.
25 BY: JOHN C. PHILLIPS, JR., ESQ., and
DAVID A. BILSON, ESQ.

and

GOODWIN PROCTOR, LLP
BY: JOHN T. BENNETT, ESQ.,
SAMUEL SHERRY, ESQ., and
SHAOBO ZHU, ESQ.
(Boston, Massachusetts)

and

GOODWIN PROCTOR, LLP
BY: ELIZABETH J. HOLLAND, ESQ.,
NAOMI BIRBACH, ESQ.
(New York, New York)

Counsel for Defendant

1 APPEARANCES: (Continued)

2

SHAW KELLER, LLP
3 BY: DAVID E. FRY, ESQ., and
KAREN E. KELLER, ESQ.

4

and

5

AXINN, VELTROP & HARKRIDER, LLP
6 BY: MATTHEW J. BECKER, ESQ., and
JASON MURATA, ESQ.
7 (Hartford, Connecticut)

7

8

and

9

AXINN, VELTROP & HARKRIDER, LLP
10 BY: TODD MARABELLA, ESQ.
(Boston, Massachusetts)

10

11

and

12

AXINN, VELTROP & HARKRIDER, LLP
13 BY: BRETT GARRISON, ESQ.
(Washington, District of Columbia)

13

14

Counsel for Defendant
Alvogen Pine Brook, LLC

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(REPORTER'S NOTE: The following bench trial was

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held in open court, beginning at 8:35 a.m.)

08:19:50 1 THE COURT: Good morning, everyone.

08:19:50 2 (The attorneys respond, "Good morning, Your
08:26:58 3 Honor.")

08:26:58 4 THE COURT: So where are we on the plaintiffs'
08:35:24 5 side in terms of if there is any more evidence on
08:35:28 6 infringement? Can you come up to the podium and let me
08:35:32 7 know?

08:35:36 8 Good morning.

08:35:36 9 MS. RUPERT: Good morning, Your Honor.

08:35:38 10 So I'm pleased to report that the parties have
08:35:41 11 reached agreement on Dr. Sandborn's proposed testimony and
08:35:46 12 in the infringement case. We have a stipulation proposed
08:35:48 13 order here for the Court to enter, and I can read its terms
08:35:52 14 to you right now.

08:35:53 15 THE COURT: Okay.

08:35:53 16 MS. RUPERT: Okay. So, Stipulation and Proposed
08:35:56 17 Order.

08:35:56 18 It is hereby stipulated by the parties, subject
08:35:58 19 to approval of the Court that, (1), Alvogen's ANDA product
08:36:03 20 meets the claim limitation "budesonide in amount effective
08:36:06 21 to treat intestinal inflammatory disease" of claim 6 of the
08:36:10 22 '888 patent. And, (2), Actavis's ANDA product meets the
08:36:14 23 claim limitation "in an amount effective to treat intestinal
08:36:18 24 inflammatory disease" of claim 9 of the '888 patent and
08:36:21 25 "budesonide in an amount effective for treatment of

08:36:23 1 inflammatory bowel disease in the gastrointestinal tract" of
08:36:27 2 claim 3 of the '273 patent.

08:36:30 3 The stipulation goes on to state: Exhibits
08:36:33 4 PTX-630, PTX-416, and PTX-251 may be admitted at trial as if
08:36:38 5 testified to by Dr. Sandborn and if the Court so allows.
08:36:41 6 Nothing in this stipulation is with prejudice or affects
08:36:44 7 the rights of plaintiffs to call Dr. Sandborn as a witness
08:36:47 8 in connection with validity of the patents-in-suit and
08:36:50 9 plaintiffs' infringement case is closed upon entry of the
08:36:52 10 stipulation.

08:36:53 11 So the only outstanding issue is whether the
08:36:56 12 Court would be amenable to the entry of those three exhibits
08:36:59 13 because Dr. Sandborn would have served as the sponsoring
08:37:02 14 witness to get their admission, and we understand the Court
08:37:04 15 requires a sponsoring witness. Those three exhibits are the
08:37:07 16 package label for Uceris and the package labels for the two
08:37:10 17 respective ANDA products.

08:37:11 18 THE COURT: Okay. I think under the
08:37:14 19 circumstances, I'm willing to agree to accept admission of
08:37:17 20 those provided I simply confirm the stipulation is as it
08:37:21 21 sounds and agreed to by both defendants; correct?

08:37:23 22 MS. HOLLAND: Yes, Your Honor.

08:37:24 23 MR. BECKER: Yes, Your Honor.

08:37:24 24 THE COURT: All right. You may pass that up, if
08:37:26 25 you wish.

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