

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

FOREST LABORATORIES, LLC, FOREST )	
LABORATORIES HOLDINGS, LTD., )	
MERCK KGaA and MERCK PATENT )	
GESELLSCHAFT MIT BESCHRÄNKTER )	
HAFTUNG, )	
)	
Plaintiffs, )	
)	C.A. No. 15-272 (GMS)
v. )	CONSOLIDATED
)	
ACCORD HEALTHCARE INC., )	
)	
Defendant. )	

**STIPULATION AND ORDER**

IT IS HEREBY STIPULATED by the parties, subject to the approval of the Court, that the following constructions shall be given to the claim terms in the listed patents below:

Claim Term	Patent/Claim	Stipulated Construction
“administer” “administered” “administering”	’020 patent, claim 2; ’195 patent, claims 1-2; ’804 patent, claim 1; ’921 patent, claims 10, 12-14	“deliver[ed/ing] into the body”
“corresponding to”	’804 patent, claims 1-3	“matching the values recited in the claims, including the error ranges stated therein”
“exhibits the following XRD data”	’020 patent, claim 1	“show all the following peaks and intensities, including an error range of +/- 0.1° for the two-theta values”
“A method of treating a patient suffering from a depressive disorder, an anxiety disorder, a bipolar	’020 patent, claim 2 ’921 patent, claims 10, 12-14	Entire preamble is limiting

Claim Term	Patent/Claim	Stipulated Construction
disorder, mania, dementia, a substance-related disorder, a sexual dysfunction, an eating disorder, obesity, fibromyalgia, a sleeping disorder, a psychiatric disorder, cerebral infarct, tension, side-effects in the treatment of hypertension, a cerebral disorder, chronic pain, acromegaly, hypogonadism, secondary amenorrhea, premenstrual syndrome, undesired puerperal lactation, or combinations thereof ...”		

IT IS FURTHER STIPULATED by the parties, pursuant to Exhibit A to the Joint Claim Construction Chart (D.I. 80), and subject to the approval of the Court, that the following constructions shall be given to the claim terms in the listed patents below:

**Terms for which the parties agree on claim construction**

Claim Term	Patent/Claim	Stipulated Construction
“treating”	‘020 patent, claim 2; ‘195 patent, claim 1 ‘804 patent, claim 1 ‘921 patent, claims 10, 12-14	“attempting to cause a therapeutic effect on”
“is treated in the patient”	‘195 patent, claims 1 ‘804 patent, claim 1	“an attempt is made to cause a therapeutic effect in the patient”

**Terms for which the parties agree no construction is required and plain and ordinary meaning should be applied**

Claim Term	Patent/Claim
“hydrate”	‘195 patent, claims 4-6; ‘921 patent, claims 1, 5
“anhydrate”	‘020 patent, claim 1 ‘195 patent, claims 3, 7 ‘804 patent, claim 1 ‘921 patent, claims 1-3, 5, 11
“solvate”	‘921 patent, claims 1, 4
“dihydrochloride”	‘921 patent, claim 1
“conventional” <sup>1</sup>	‘195 patent, claim 2 ‘804 patent, claim 1 ‘921 patent, claims 11, 15

**Clauses the parties agree are limiting**

Clause	Patent/Claim
“wherein said patient is suffering from a depressive disorder”	‘020 patent, claim 4
“wherein said patient is suffering from a major depressive disorder”	‘020 patent, claim 5
“wherein the major depressive disorder is treated in the patient”	‘804 patent, claim 1
“wherein a depressive disorder is treated in the patient”	‘195 patent, claim 1
“wherein the depressive disorder is major depressive disorder”	‘195 patent, claim 16

**Clauses the parties agree are not limiting**

Clause	Patent/Claim
“A method of treating a depressive disorder”	‘195 patent, claim 1
“A method of treating a major depressive disorder”	‘804 patent, claim 1

The parties agree that these stipulated constructions apply only to the patents-in-suit, and have no bearing on the construction of claim terms in any other patent. Further, the stipulated constructions cannot be used as evidence against any party in any other pending or future suit.

<sup>1</sup> Defendants reserve the right to contend that this term is indefinite under 35 U.S.C. § 112.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

*/s/ Jack B. Blumenfeld*

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Jack B. Blumenfeld (#1014)  
Maryellen Noreika (#3208)  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899  
(302) 658-9200  
jblumenfeld@mnat.com  
mnoreika@mnat.com

*Attorneys for Plaintiffs Forest Laboratories,  
LLC, Forest Laboratories Holdings, Ltd.,  
Merck KGaA, and Merck Patent GmbH*

OF COUNSEL:

David B. Bassett  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
(212) 230-8800

Vinita Ferrera  
Emily R. Whelan  
Anna E. Lumelsky  
William C. Kinder  
Deric X. Geng, Ph.D.  
WILMER CUTLER PICKERING  
HALE AND DORR LLP  
60 State Street  
Boston, MA 02109  
(617) 526-6000

PHILLIPS GOLDMAN MCLAUGHLIN & HALL, P.A.

*/s/ David A. Bilson*

---

John C. Phillips, Jr. (#110)  
David A. Bilson (#4986)  
1200 North Broom Street  
Wilmington, DE 19806  
(302) 655-4200  
dab@pgmhlaw.com  
jcp@pgmhlaw.com

*Attorneys for Defendant Accord Healthcare  
Inc.*

OF COUNSEL:

Jill M. Browning  
Michael J. Fink  
Neil F. Greenblum  
P. Branko Pejic  
Paul A. Braier  
GREENBLUM AND BERNSTEIN, P.L.C.  
1950 Roland Clarke Place # 100  
Reston, VA 20191  
(703) 390-1298

SMITH, KATZENSTEIN & JENKINS LLP

*/s/ Eve H. Ormerod*

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Neal C. Belgam (#2721)  
Eve H. Ormerod (#5369)  
The Brandywine Building  
1000 West Street, Suite 1501  
P.O. Box 410  
Wilmington, DE 19899  
(302) 652-8400  
nbelgam@skjlaw.com  
eormerod@skjlaw.com

*Attorneys for Defendants Alembic  
Pharmaceuticals Ltd., Alembic Global  
Holding SA and Alembic  
Pharmaceuticals, Inc.*

OF COUNSEL:

William O. Adams  
Karen M. Cassidy  
KNOBBE, MARTENS, OLSON & BEAR, LLP  
2040 Main Street, 14th Floor  
Irvine, CA 92614  
(949) 760-0404

CAESAR RIVISE, PC

*/s/ R. Touhey Myer*

---

R. Touhey Myer (#5939)  
800 North King Street, Suite 304  
Wilmington, DE 19801  
(302) 544-9100  
tmyer@crbcp.com

*Attorneys for Defendant Invagen  
Pharmaceuticals Inc.*

OF COUNSEL:

Robert S. Silver  
Salvatore Guerriero  
Lynn Terrebonne  
Pei-Ru Wey  
CAESAR RIVISE, PC  
1635 Market Street  
Seven Penn Center, 12th Floor  
Philadelphia, PA 19103  
(215) 567-2010

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