

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

BAYER INTELLECTUAL	:	
PROPERTY GMBH, et al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 17-462-RGA
	:	
TARO PHARMACEUTICAL	:	
INDUSTRIES, LTD., et al.,	:	
	:	
Defendants.	:	

ORDER

The parties spent about 33 pages briefing one disputed Markman term. (D.I. 82). Plaintiffs spent at least 15 pages trying to convince me their lexicographic definition was required. I ruled in Plaintiffs’ favor. (D.I. 91).

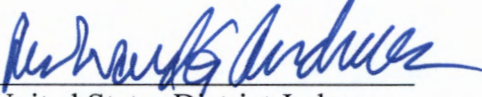
Plaintiffs have filed a letter that in essence seeks to have me further construe their lexicographic definition. (D.I. 120). Defendant Mylan opposes. (D.I. 121). Plaintiffs further responded. (D.I. 123).

Just to recap, I gave Plaintiffs exactly what they asked for, and, indeed, what Plaintiffs told me I had no choice but to give them, and now they want something different. I decline to hear that.

I expect I will see this dispute again in the lead-up to the pretrial conference, or at trial, as I expect the experts will take different tacks on what, as a matter of fact, meets the lexicographic definition. I expect in the end that resolving the issue will be a fact decision at trial.

Plaintiffs' request for more claim construction is **DENIED**.

IT IS SO ORDERED this 28 day of September 2018.


United States District Judge