

Arnold B. Calmann (abc@saiber.com)
Jeffrey Soos (js@saiber.com)
Katherine A. Escanlar (kae@saiber.com)

SAIBER LLC

One Gateway Center, 10th Floor, Suite 1000
Newark, New Jersey 07102
Telephone: (973) 622-3333

Douglas H. Carsten (dcarsten@wsgr.com)
Elham Firouzi Steiner (esteiner@wsgr.com)
Arthur P. Dykhuis (adykhuis@wsgr.com)
Nathaniel R. Scharn (nscharn@wsgr.com)
Alina L. Litoshyk (alitoshyk@wsgr.com)
James P.H. Stephens (jstephens@wsgr.com)
Michael Taylor Dimler (tdimler@wsgr.com)

WILSON SONSINI GOODRICH & ROSATI P.C.

12235 El Camino Real
San Diego, California 92130
Telephone: (858) 350-2300

*Attorneys for Defendants Mylan GmbH, Biocon Ltd., Biocon
Research Ltd., Biocon Sdn. Bhd., and Biocon S.A.*

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

SANOFI-AVENTIS U.S. LLC, SANOFI-
AVENTIS DEUTSCHLAND GMBH, and
SANOFI WINTHROP INDUSTRIE,

Plaintiffs,

v.

MYLAN N.V., MYLAN GMBH, MYLAN INC.,
and MYLAN PHARMACEUTICALS INC.,

Defendants.

C.A. No. 17-cv-09105-SRC-CLW

**MYLAN GMBH AND BIOCON'S PRELIMINARY CLAIM CONSTRUCTIONS AND
SUPPORTING EVIDENCE PURSUANT TO L. PAT. R. 4.2**

Pursuant to the Court's December 19, 2017 Scheduling Order (D.I. 23), Local Patent
Rule 4.2, and agreement of the parties, based on the evidence available to it at this time,

Defendants Biocon Ltd., Biocon Research Ltd., Biocon Sdn. Bhd., and Biocon S.A. (collectively “Biocon”) and Mylan GmbH (with Biocon, “Defendants”) provide the following preliminary proposed constructions of each term identified by the parties in the above-captioned case for claim construction. Biocon and Mylan GmbH further identify references from the patent specifications and prosecution histories of U.S. Patent Nos. 7,476,652 (“652 patent”), 7,713,930 (“930 patent”), 8,603,044 (“044 patent”), 8,679,069 (“069 patent”), 8,992,486 (“486 patent”), 9,526,844 (“844 patent”), and 9,604,008 (“008 patent”) (collectively, “Asserted Patents”) in support of their preliminary proposed constructions, as well as supporting extrinsic evidence, pursuant to Local Patent Rule 4.2(b).

The proposed constructions and supporting evidence, listed in Exhibits A-G, are preliminary and subject to revision or supplementation as discovery proceeds. Biocon and Mylan GmbH reserve the right to rely on additional intrinsic and extrinsic evidence, including expert testimony, to rebut any evidence relied upon by Plaintiffs in support of their proposed claim constructions, pursuant to Local Patent Rule 4.2(c). Furthermore, Biocon and Mylan GmbH reserve the right to amend or supplement these preliminary proposed constructions and supporting evidence in connection with the Joint Claim Construction and Prehearing Statement required by Local Patent Rule 4.3.

Biocon and Mylan GmbH reserve the right to supplement or change their proposed constructions for the listed claim terms, or to add or remove proposed terms for construction, based on Plaintiffs’ proposed constructions, any modification or amendments to Plaintiffs’ Infringement or Responses to Invalidity Contentions, or based on any additional evidence that Biocon and Mylan GmbH may discover in this action.

Dated: September 5, 2018

Respectfully submitted,

/s/ Nathaniel R. Scharn

Nathaniel R. Scharn
Douglas H. Carsten
Elham Firouzi Steiner
Arthur P. Dykhuis
Alina L. Litoshyk
James P.H. Stephens
Michael Taylor Dimler
WILSON SONSINI GOODRICH & ROSATI
12235 El Camino Real
San Diego, California 92130
(858) 350-2300

Arnold B. Calmann
Katherine A. Escanlar
SAIBER LLC
One Gateway Center
10th Floor, Suite 100
Newark, New Jersey 07102
(973) 622-3333
abc@saiber.com
kae@saiber.com

*Attorneys for Defendants Mylan GmbH,
Biocon Ltd., Biocon Research Ltd., Biocon
Sdn. Bhd., and Biocon S.A.*

Exhibit A

U.S. Patent No. 7,476,652

Claim Term	Defendants' Construction	Evidence Identified to Potentially Be Defendants' Construct
<p>“polysorbate” (claims 7, 24)</p>	<p>Plain and ordinary meaning, which the person of ordinary skill in the art would understand to be “a series of partial fatty acid esters of sorbitol and its anhydrides copolymerized with approximately 20, 5, or 4 moles of ethylene oxide for each mole of sorbitol and its anhydrides.” No construction necessary.</p>	<p><u>Intrinsic Evidence</u></p> <p><i>Claims</i></p> <ul style="list-style-type: none"> • '652 patent, claims 1, 2, 7, 8, 23 <p><i>Specification</i></p> <ul style="list-style-type: none"> • '652 patent, at 3:50-56 • '652 patent, at examples 1-3 (5:1 <p><i>Prosecution History</i></p> <p>U.S. Application No. 11/089,777</p> <ul style="list-style-type: none"> • March 25, 2005 Transmittal of N 16-19 • October 3, 2006 Non-Final Rejec 21, 2007 Response, at 5-10 <p>Defendants reserve the right to rely on a '652 patent specification and prosecution</p> <p><i>Related Patents</i></p> <p>'930 patent, at 3:27-30; examples 1-3 (5</p> <p><u>Extrinsic Evidence</u></p> <p><i>Sanofi-Aventis US LLC et al. v. Eli Lilly</i> 1:14-cv-00113-RGA-MPT (Dkt. 95, at F at 20-24; Dkt. 236, at 2-3) and reference</p> <p><i>Sanofi-Aventis US LLC et al. v. Eli Lilly</i></p>

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.