

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
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Elham Firouzi Steiner
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Alina L. Litoshyk
James P.H. Stephens
Michael Taylor Dimler
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Katherine A. Escanlar
SAIBER LLC
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10th Floor, Suite 100
Newark, New Jersey 07102
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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' Construc
<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 M 16-19 • October 3, 2006 Non-Final Reje 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 1 at 20-24; Dkt. 236, at 2-3) and reference</p> <p><i>Sanofi-Aventis US LLC et al. v. Eli Lilly</i></p>

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