

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE SITAGLIPTIN PHOSPHATE	:	MDL No. 19-2902-RGA
('708 & '921) PATENT LITIGATION	:	
	:	C.A. Nos. 19-311-RGA
	:	19-312-RGA
	:	19-313-RGA
	:	19-314-RGA
	:	19-317-RGA
	:	19-318-RGA
	:	19-319-RGA
	:	19-347-RGA
	:	19-1489-RGA
	:	20-776-RGA

TENTATIVE MARKMAN ORDER

The Court has read the briefing (D.I. 136), and, for the benefit of the parties, provides its tentative rulings on the disputed terms, in the same order as they are presented in the briefing, in advance of tomorrow's Markman hearing.

1. Does not exclude hydrates.
2. Merck's alternative construction, without "fixed."
3. Indefinite. "Absorption bands" has no understood meaning, and it is not a "typographical error" that I can correct.
4. Defendants' construction – the crystallization begins at 25 degrees Celsius.
5. No disclaimer. Surfactant.
6. No disclaimer. Sitagliptin.
7. No disclaimer. Sodium lauryl sulfate.
8. Merck's alternative construction, without "fixed."

Where the tentative ruling is in Merck's favor, Defendants should present argument first.

There is no need for argument on terms 7 and 8. Thus, the order of presentation should be 5, 6, 1, 2, 3, 4.

IT IS SO ORDERED this 17th day of August 2020.

/s/ Richard G. Andrews
United States District Judge