

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

ALLERGAN, INC.,

Plaintiff,

v.

TEVA PHARMACEUTICALS USA, INC.,  
AKORN, INC., MYLAN PHARMACEUTICALS  
INC., and MYLAN INC.,

Defendants.

Civil Action No. 2:15-cv-1455-WCB

(Consolidated) LEAD CASE

JURY TRIAL DEMANDED

**DEFENDANTS' NOTICE REGARDING ALLERGAN'S DOCUMENT PRODUCTION  
ACCORDING TO THE COURT'S OCTOBER 6, 2017 ORDER (DKT. NO. 503)**

On October 6, 2017, the Court issued an Order (Dkt. No. 503) requiring Plaintiff Allergan, Inc. ("Allergan") to "provide the Court, by 5 p.m., Central Time, on Tuesday, October 10, 2017, with copies of those documents pertinent to the terms of the assignment of the patents-in-suit to the Tribe, including any information as to payments made or to be made either by the Tribe or by Allergan in connection with the transaction." Dkt. No. 503 at 2. The Court further ordered the parties "to file briefs by Friday, October 13, 2017, addressing the question whether the Tribe should be joined as a co-plaintiff in this action, or whether the assignment of the patents to the Tribe should be disregarded as sham."

To facilitate compliance with the Court's Order, Defendants seek to clarify that Allergan must produce copies of the documents to both Defendants and the Court on October 10, 2017. Second, in order to allow the defendants a full opportunity fully to analyze the sham nature of the transaction, Defendants request that Allergan's document production include at least the following categories of documents pertinent to the terms of the assignment of the patents-in-suit to the Tribe:

1. All agreements, including drafts thereof, underlying the assignment of the patents-in-suit, including any related applications or patents, from Allergan to the Tribe.
2. All license grants, side agreements, supplemental agreements, agreements to agree, and/or term sheets concerning or relating to the assignment transaction between the Tribe and Allergan.
3. All documents evidencing any communications, written or oral, between Allergan, or its attorneys, on the one hand and the Tribe, or the Tribe's attorneys, on the other hand concerning or discussing the assignment of the patents-in-suit, including any related applications or patents.
4. All documents evidencing any communications, written or oral, between Allergan and the Tribe, or the Tribe's attorneys, concerning or discussing any license of the patents-in-suit, including any drafts thereof.
5. All documents Allergan intends to provide, has agreed to provide, or has provided to the House Committee on Oversight and Government Reform (<http://www.reuters.com/article/us-allergan-patents/u-s-house-committee-launches-probe-of-allergan-patent-deal-idUSKCN1C8262?il=0>).
6. All agreements that incorporate by reference, or refer to, Allergan license grants, side agreements, supplemental agreements, agreements to agree, and/or term sheets concerning or relating to the alleged assignment transaction between the Tribe and Allergan.
7. All agreements referenced in the alleged assignment transaction between the Tribe and Allergan.
8. All documents evidencing any communications, written or oral, between Allergan, or its attorneys, on the one hand and the Tribe, or the Tribe's attorneys, on the other hand concerning or discussing *inter partes* review proceedings or patents, including any marketing material.
9. All documents and communications, written or oral, sufficient to show any consideration that the Tribe gave to Allergan as a part of the assignment transaction of the patents-in-suit.

Defendants are hopeful that Allergan's production will be sufficient to allow for full briefing on the question of Allergan's transaction with the Tribe. However, in the event evaluation of Allergan's production reveals the necessity of a 30(b)(6) or limited 30(b)(1) depositions, Defendants request leave to file a letter seeking relief from the October 13 filing and allowing Defendants to conduct such depositions on an expedited basis.

We are willing to meet with Your Honor should the Court have any questions or concerns regarding these matters.

Dated: October 6, 2017

Respectfully submitted,

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