

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

G.D. SEARLE LLC and PFIZER ASIA PACIFIC
PTE. LTD.,

Plaintiffs,

v.

LUPIN PHARMACEUTICALS, INC.,
TEVA PHARMACEUTICALS USA, INC.,
MYLAN PHARMACEUTICALS INC.,
WATSON LABORATORIES, INC.,
APOTEX INC., and
APOTEX CORP.,

Defendants.

Civil Action No. 2:13-cv-121

FINAL JUDGMENT UNDER FED. R. CIV. P. 54(b)

This matter between Plaintiffs G.D. Searle LLC and Pfizer Asia Pacific PTE. Ltd. (“Plaintiffs”) against defendants Lupin Pharmaceuticals, Inc. (“Lupin”), Teva Pharmaceuticals USA, Inc. (“Teva”), Mylan Pharmaceuticals Inc. (“Mylan”), Watson Laboratories, Inc. (“Watson”) and Apotex Inc. and Apotex Corp. (collectively “Apotex”) (collectively, “Defendants”) having come before the Court on motions for summary judgment that United States Reissue Patent No. RE44,048 (the “’048 patent”) is invalid (collectively, the “Motion”), and the Court having ruled on the Motion by its Order entered on March 12, 2014 (Doc. 351),

IT IS on this 8th day of May 2014,

ORDERED AND ADJUDGED as follows:

1. The ’048 patent is invalid under 35 U.S.C. § 251 and on the basis of obviousness-type double patenting for the reasons set forth in the Court’s March 12, 2014 Order (Doc. 351).

2. Pursuant to Fed. R. Civ. P. 54(b) and 58, final Judgment is entered in favor of Lupin, Teva, Mylan, Watson and Apotex and against Plaintiffs;

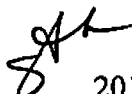
3. Because the '048 patent is invalid, Plaintiffs' Complaint is dismissed with prejudice, Plaintiffs' request for an injunction pursuant to 35 U.S.C. § 271 is denied, and Defendants' accused products do not infringe the '048 patent;

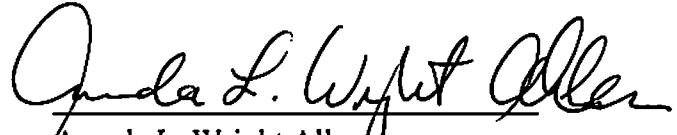
4. Because the '048 patent is the only asserted patent and the claims adjudicated herein are separable from any other claims, the interests of judicial administration and the parties are served and good cause has been shown that no just reason exists to delay the entry of Final Judgment under Fed. R. Civ. P. 54(b) on Plaintiffs' claims of infringement;

5. In the event Plaintiffs file an appeal from this Final Judgment, any motion for attorney's fees and/or costs under Fed. R. Civ. P. 54(d) and Local Civil Rule 54(D), including any related discovery, to which Defendants are entitled in connection with their respective claims that this case is exceptional under 35 U.S.C. § 285, shall be considered timely filed if filed and served within thirty (30) days after final disposition of any such appeal; and

6. In the event Plaintiffs do not file an appeal from this Final Judgment, any motion for attorney's fees and/or costs under Fed. R. Civ. P. 54(d) and Local Civil Rule 54(D), including any related discovery to which Defendants are entitled in connection with their respective claims that this case is exceptional under 35 U.S.C. § 285, shall be considered timely filed if filed and served within 30 days after the expiration of the time for filing a notice of appeal under Fed. R. App. P. 3 and 4.

7. The Court does not address at this time and defers any rulings on motions for attorneys' fees and/or costs and notes that the Plaintiffs contend that none should be granted.

Dated: May  8, 2014


Arenda L. Wright Allen
United States District Judge