

\*E-Filed 09/29/11\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SHIRE LLC; SUPERNUS  
PHARMACEUTICALS, INC.; AMY F.T.  
ARNSTEN, PH.D.; PASKO RAKIC, M.D.;  
and ROBERT D. HUNT, M.D.,

No. C 10-5467 RS

**ORDER AMENDING CASE  
MANAGEMENT SCHEDULE**

Plaintiffs,

v.

IMPAX LABORATORIES, INC.;  
WATSON PHARMACEUTICALS, INC.;  
WATSON LABORATORIES,  
INC.–FLORIDA; WATSON PHARMA,  
INC.; and ANDA, INC.,

Defendants.

On September 22, 2011, plaintiffs Shire LLC, Supernus Pharmaceuticals, Inc., Amy Arnsten, Pasko Rakik, and Robert Hunt brought a motion to modify the Case Management Scheduling Order entered by the Court on June 15, 2011. Plaintiffs contend that they served discovery on defendants on June 3, 2011, seeking a copy of the Abbreviated New Drug Application (ANDA) filed by defendant Impax Laboratories, Inc. (Impax) and of the one filed by Watson Pharmaceuticals, Inc., Watson Laboratories, Inc.–Florida, Watson Pharma, Inc., and Anda, Inc. (collectively, the “Watson defendants”), as well as samples of defendants’ respective products. Plaintiffs assert the information is necessary for the preparation of its Infringement Contentions

1 which are presently due October 3, 2011. Plaintiffs argue that Impax has not produced either of the  
2 requested materials and the Watson defendants have produced only a copy of their ANDA.

3 Plaintiffs now move for a four-month extension of all dates in the Scheduling Order through  
4 the claim construing briefing. They suggest that they need this time to obtain the requested  
5 materials and to analyze them. If plaintiffs require that amount of time to prepare their infringement  
6 contentions, they must move for relief sooner than eleven days before the present deadline. Thus,  
7 plaintiffs' motion for a four-month extension is denied. As the parties indicate they had been  
8 working toward a one-month extension, the Court will instead extend the deadlines by that amount  
9 of time in the hope that the parties can resolve this dispute in a timely manner. If necessary,  
10 however, the parties should bring motions to compel or for a protective order to resolve their  
11 dispute. It will not be addressed in a motion to enlarge time pursuant to Civil Local Rule 6-3.  
12 Moreover, any motion for attorneys' fees and costs must be brought pursuant to Civil Local Rule  
13 54-5.

14 At this point, a further extension in the deadline for infringement and invalidity contentions  
15 is not likely to be granted. Thus, the parties should submit their contentions with the information  
16 available in advance of the amended schedule below. If the parties later obtain relevant, new  
17 information, they may file motions to amend their respective contentions, if they can demonstrate  
18 good cause pursuant to Patent Local Rule 3-6.

19 Accordingly, the following new dates in the Case Management Schedule shall be adopted:

- 20 • Disclosure of Asserted Claims and Infringement Contentions<sup>1</sup> and Document Production  
21 Accompanying Disclosure, **November 3, 2011**
- 22 • Disclosure of Infringement Contentions and Document Production Accompanying  
23 Disclosure, **December 16, 2011**

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26 <sup>1</sup> Although the parties refer to "preliminary" infringement and invalidity contentions, the  
27 present version of the Northern District's Patent Local Rules has dropped use of that term. The  
28 change reflects the fact that, although they were previously called preliminary contentions, the Rules  
"are designed to require parties to crystallize their theories of the case early in the litigation and to  
adhere to those theories once they have been disclosed." *Integrated Circuit Sys. v. Realtek  
Semiconductor Co.*, 308 F. Supp. 2d 1106, 1107 (N.D. Cal. 2004).

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- Exchange List of Claim Terms Each Party Contends Should be Construed by the Court, **December 30, 2011**
- Deadline to Meet and Confer to Limit Terms in Dispute and Identify 10 Terms Likely to Be Most Significant to Resolving Dispute, **January 9, 2012**
- Exchange Proposed Constructions for Each Term Identified by the Parties, Including Intrinsic and Extrinsic Evidence Supporting Each Construction, **January 23, 2012**
- Deadline to Meet and Confer for Purposes of Finalizing Preparation of Joint Claim Construction and Prehearing Statement, **February 6, 2012**
- File Joint Claim Construction and Prehearing Statement, Including Identification of 10 Claim Terms That Will Be Most Significant to Resolution of the Case, **February 13, 2012**
- Complete Claim Construction Discovery, **March 16, 2012**
- Deadline to Amend Pleadings, **March 16, 2012**
- Deadline for Opening Claim Construction Brief, **March 30, 2012**
- Deadline for Opposition to Claim Construction Brief, **April 20, 2012**
- Reply in Support of Claim Construction Brief, **May 4, 2012**
- Markman Hearing, **May 30, 2012 at 10:00 AM**

IT IS SO ORDERED.

Dated: 09/29/11



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RICHARD SEEBORG  
UNITED STATES DISTRICT JUDGE