

United States District Court  
For the Northern District of California

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

TAKEDA PHARMACEUTICAL CO., LTD.,	)	
TAKEDA PHARMACEUTICALS U.S.A.,	)	Case No.: 13-CV-02420-LHK
INC., AND TAKEDA	)	
PHARMACEUTICALS AMERICA, INC.,	)	<b>CASE MANAGEMENT ORDER</b>
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
TWI PHARMACEUTICALS, INC.,	)	
	)	
Defendant.	)	

Plaintiff's Attorney: Heather Takahashi  
Defendant's Attorney: Don J. Mizerk

A case management conference was held on December 10, 2014. A further case management conference was set for March 19, 2015, at 1:30 p.m. The parties shall file their joint case management statement by March 12, 2015.

The Court hereby ORDERS Takeda to produce all TAP Pharmaceuticals inventor e-mails (with attachments) from 2000 to 2008 no later than December 23, 2014, and all TAP licensing documents no later than January 7, 2015. TWi will consult with Takeda regarding custodians for the licensing documents. Takeda will produce the documents to TWi on a rolling basis, beginning as soon as possible.

As a result, the Court will allow TWi to re-depose the following individuals:

- The six (total) inventors of the '158 and '187 Patents;
- The '158 and '187 Patent prosecutors (Mr. Yasger, Ms. Mueller, and Mr. Buonaiuto);
- TAP Pharmaceuticals CEO Watkins;
- Mr. Yasger (both as to licensing and as to patent prosecution);
- Mr. Frapaise; and
- Individuals associated with the 2006-2007 development of dissolution protocol for TAP's New Drug Application.

All depositions, except for the inventor who resides in New York City, shall be held in Chicago. The Court hereby ORDERS that Takeda shall bear the following expenses for any of the above depositions:

- Court reporter;
- Videographer; and
- TWi attorney travel expenses, including airfare and hotel, for deposition of the inventor residing in New York City (if necessary).

The Court adopts Judge Grewal’s recommendation and allows Takeda to reassert claim 7 of the ’187 Patent in exchange for dropping claim 8. *See* ECF No. 128. TWi stipulated that there are no corresponding changes to its invalidity contentions.

**Upon further reflection, the Court allows Takeda to reassert claim 6 of the ’187 Patent in light of TWi’s filing of an amended ANDA. *See* ECF No. 124, Takeda’s Second Case Narrowing Statement.**

The following ELEVEN claims are now being asserted in the case:

- ’158 Patent: claims 1, 2, 3, and 6
- ’187 Patent: claims 1, 2, 5, 6, 7, 11, and 16

TWi stipulated that only the following THREE prior art references will be used at trial:

- Akiyama reference (three versions);
- Dietrich reference; and
- Offer for sale.

The parties agreed to meet and confer regarding Takeda’s possible filing of a motion to strike in part TWi’s expert report(s) as to anticipation by the Dietrich reference and enablement under section 112. If Takeda files the motion, the hearing date shall be March 19, 2015, at 1:30 p.m. The parties shall determine their own briefing schedule, with Takeda’s reply due no later than March 5, 2015.

The Court amended the case schedule as follows:

Scheduled Event	Date
Parties Serve Rebuttal Expert Reports and Produce Related Documents/Materials	December 22, 2014
Deadline for Takeda to Produce TAP Inventor E-mails	December 23, 2014
Deadline for Takeda to Produce TAP Licensing Documents	January 7, 2015
Parties Serve Reply Expert Reports	January 9, 2015
Close Expert Discovery	January 23, 2015
Deadline for Takeda to File and Serve a Narrowed List of Asserted Claims	February 1, 2015 (max 7 claims)
Last Day to File Dispositive Motions	February 19, 2015
Last Day to File Reply Supporting Takeda’s Motion to Strike (if necessary)	March 5, 2015
Further CMC	March 19, 2015, at 1:30 p.m.
Hearing on Takeda’s Motion to Strike (if necessary)	March 19, 2015, at 1:30 p.m.
Hearing on Dispositive Motions	April 9, 2015, at 1:30 p.m.
Deadline for Takeda to File and Serve a Narrowed List of Asserted Claims	April 16, 2015 (max 5 claims)

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Final Pretrial Conference	May 14, 2015, at 1:30 p.m.
Bench Trial	June 2, 2015, at 9:00 a.m.
Length of Trial	7 days

**IT IS SO ORDERED.**

Dated: December 10, 2014

  
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LUCY H. KOH  
United States District Judge