

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

APTALIS PHARMATECH, INC. AND)	
IVAX INTERNATIONAL GMBH,)	
)	
Plaintiffs,)	
)	
v.)	Civ. No. 14-1038-SLR
)	
APOTEX INC. AND APOTEX CORP.,)	
)	
Defendants.)	
)	

MEMORANDUM ORDER

At Wilmington this ~~10th~~^{9th} day of June, 2015, having heard argument on, and having reviewed the papers submitted in connection with, the parties' proposed claim construction;

IT IS ORDERED that the disputed claim language of U.S. Patent Nos. 7,790,199 ("the '199 patent")¹ and 7,829,121 ("the '121 patent") shall be construed consistent with the tenets of claim construction set forth by the United States Court of Appeals for the Federal Circuit in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005), as follows:

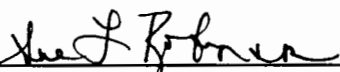
1. **"Extended release coating:"**² "A layer of any substance that is applied onto the surface of another, the purpose of which is to delay the release of a drug in order to maintain the drug at therapeutically effective concentrations over an extended period of time." The specification explains that extended release coatings allow delivery of the

¹ All references are to the '199 patent.

² Found in each claim of the patents-in-suit: "[A]n extended release coating comprising a water insoluble polymer membrane surrounding said core, wherein said water insoluble polymer membrane comprises" (See e.g., claim 1)

drug “so as to maintain the drug at therapeutically effective concentrations over an extended period of time.” (1:19-20; see *also* 4:50-53, 7:47-50) “The drug-containing particle may be coated with an extended release (ER) coating The extended release coating is applied in an amount necessary to provide the desired release profile.” (5:38-47) The extended release coatings are “membrane coatings [that] can be applied to the core using any of the coating techniques commonly used in the pharmaceutical industry, but fluid bed coating is particularly useful.” (7:11-13) For example, a process is “to apply an extended release polymer membrane” onto “beads” coated with a “seal coat” and then “further coating the . . . beads” with another substance. (8:22-51)

2. The court has provided a construction in quotes for the claim limitations at issue. The parties are expected to present the claim construction to the jury consistently with any explanation or clarification herein provided by the court, even if such language is not included within the quotes.


United States District Judge