

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GALDERMA LABORATORIES, L.P.;
NESTLÉ SKIN HEALTH S.A.; and
TCD ROYALTY SUB, LLC,

Plaintiffs,

v.

: C.A. No. 15-670-LPS

DR. REDDY'S LABORATORIES, LTD.;
DR. REDDY'S LABORATORIES, INC.; and
PROMIUS PHARMA, LLC,

Defendants.

MEMORANDUM ORDER

Having reviewed the parties' briefing and related materials concerning Defendants' motion for leave to file motion for summary judgment (D.I. 50; *see also* D.I. 52, 54, 61), IT IS HEREBY ORDERED that Defendants' motion (D.I. 50) is DENIED.

With respect to the Ashley Patents, while Defendants may ultimately be able to prevail in showing that collateral estoppel applies to Plaintiffs' assertion of infringement by the doctrine of equivalents (an issue the Court does not today decide), the parties dispute whether this issue was "actually litigated" in earlier cases, and further dispute whether Plaintiffs' contentions would vitiate a claim limitation. The Court will be in a better position to fully and fairly evaluate these issues during and/or after trial. (In this regard, it is noteworthy that even granting Defendants' motion would not eliminate the need for trial, as the motion is directed only to eight of the ten patents-in-suit.)

With respect to the Chang Patents, there are genuine disputes of material fact as to

whether, under the doctrine of equivalents, a formulation consisting of "modified release" pellets demonstrating a release profile substantially the same as the claimed release profile resulting from claimed combinations of immediate and delayed release pellets is infringing. Trial will be necessary to resolve these disputes.

The parties shall meet and confer and shall, no later than October 19, submit a proposed redacted version of this Memorandum Order.

October 17, 2016
Wilmington, Delaware



HON. LEONARD P. STARK
UNITED STATES DISTRICT JUDGE