

United States District Court
District of Massachusetts

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MOMENTA PHARMACEUTICALS, INC.,))	
SANDOZ INC.,))	
Plaintiffs,))	
))	Civil Action No.
v.))	11-11681-NMG
))	
AMPHASTAR PHARMACEUTICALS, INC.,))	
INTERNATIONAL MEDICATION))	
SYSTEMS, LTD., WATSON))	
PHARMACEUTICALS, INC.,))	
Defendants.))	
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MEMORANDUM AND ORDER

GORTON, J.

In consideration of the plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Docket No. 18), the Court has further reviewed and considered the Memorandum of Law filed in support thereof, the accompanying exhibits and affidavits and the oral arguments of counsel for both parties during the hearing on this date.

The Court determines, on the basis of the foregoing, that plaintiffs have demonstrated a reasonable likelihood of success on the merits and a significant risk of irreparable harm if their motion for a temporary restraining order were erroneously denied. At this preliminary stage, the Court concludes that the balance of harms weighs heavily in favor of granting plaintiff temporary injunctive relief because plaintiffs face a significant risk of

price erosion, loss of market share and reputational harm if defendants are permitted to "launch" the allegedly infringing product before this Court is able to consider the respective arguments of counsel on the merits at a hearing within two weeks. On the other hand, defendants face little, if any, prospective harm that could not be fully protected by a bond posted pursuant to Fed. R. Civ. P. 65(c). After defendants have filed their responsive pleadings, a comprehensive hearing on the merits will be held on Thursday, October 20, 2011, at 11:00 a.m. in Courtroom #4, Moakley Federal Courthouse. The Court will then determine whether further injunctive relief is warranted.

TEMPORARY RESTRAINING ORDER

In accordance with the foregoing, it is hereby ORDERED that:

- 1) until the close of business on Friday, October 21, 2011, the defendants, and any entity or persons acting on their behalf, shall not advertise, offer for sale or sell in the United States any generic enoxaparin product that allegedly infringes one or more of the patents issued to Momenta Pharmaceuticals, Inc. and at issue in this case; and
- 2) the plaintiff, pursuant to Fed. R. Civ. P. 65(c), shall, on or before the close of business on Tuesday, October 11, 2011, post a security bond in the amount of Fifty Thousand Dollars (\$50,000) to secure any costs and damages that may be incurred or suffered by the defendants should it later be determined that this temporary restraining order was improvidently entered.

So ordered.

/s/ Nathaniel M. Gorton
Nathaniel M. Gorton
United States District Judge

Dated October 7, 2011