

United States District Court
District of Massachusetts

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MOMENTA PHARMACEUTICALS, INC.))
and SANDOZ INC.,))
))
Plaintiffs,))
))
v.)	Civil Action No.
)	11-11681-NMG
AMPHASTAR PHARMACEUTICALS, INC.,))
INTERNATIONAL MEDICATION))
SYSTEMS, LTD., ACTAVIS PHARMA,))
INC.,))
))
Defendants.))
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ORDER

GORTON, J.

Upon careful consideration of the objections of defendants Amphastar Pharmaceuticals, Inc., International Medication Systems, Ltd., and Actavis Pharma, Inc. (Docket No. 791) to the Electronic Order of Magistrate Judge Robert B. Collings (Docket No. 769), and the response of plaintiffs Momenta Pharmaceuticals, Inc. and Sandoz, Inc. (Docket No. 806), the Court:


- 1) rejects the determination of the Magistrate Judge with respect to defendants' proposed, amended preliminary noninfringement contentions (Docket No. 791, Exhibit 1) because, as defendants point out, those amendments specifically address plaintiffs' amendments to their

infringement claims concerning the DBB test and defendants are "likewise [permitted] to amend or supplement their disclosures" under the scheduling order; but

2) accepts and adopts the determination of the Magistrate Judge with respect to defendants' proposed, amended invalidity contentions because those amendments exceed the scope of plaintiffs' amendments and, as the Magistrate Judge concluded, "defendants can argue changes in the law at the summary judgment stage or at trial".

Accordingly, the Electronic Order is rejected with respect to the conclusion of the Magistrate Judge that defendants may not amend their preliminary noninfringement contentions (which they may now amend) but is otherwise accepted and adopted. 28 U.S.C. § 636(b).

So ordered.



Nathaniel M. Gorton
United States District Judge

Dated April 13, 2017