UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS INSTITUTE   )
OF TECHNOLOGY and CHILDREN'S   )
MEDICAL CENTER CORPORATION,   )
      Plaintiffs,   )
)
      v.   )   1:13-CV-10020-MLW
)
SHIRE PHARMACEUTICALS, INC., and)
SHIRE REGENERATIVE MEDICINE, INC.,)
      Defendants.   )

ORDER

WOLF, D.J.   March 12, 2015

As stated at the March 11, 2015 hearing, it is hereby ORDERED that:

1. By March 25, 2015, the parties shall file supplemental memoranda addressing the following issues:

    a. Whether the court should decide the indefiniteness issue in connection with the Markman hearing or after discovery, the standards for deciding indefiniteness after Nautilus, Inc., v. Biosig Instruments, Inc., 134 S. Ct. 2120, and any progeny, and the merits of defendants' indefiniteness defense.

    b. The standards for determining whether examples or statements contained in the patent specifications limit the scope of a claim and how they apply in the instant case.

    c. Whether the court should hear expert testimony at the Markman hearing and the implications, if any, of Teva

Pharmaceuticals USA, Inc. v. Sandoz, Inc., 135 S. Ct. 831 (2015), for that decision.
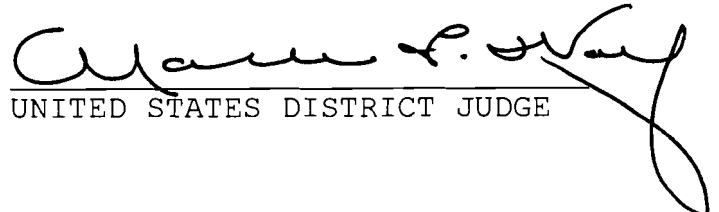
2.   The parties shall confer and, by March 25, 2015, submit, jointly if possible but separately if necessary:

a.   The order in which the disputed claim terms should be addressed at the Markman hearing.

b.   A single document containing the parts of the prosecution history relied on by each party in its claim construction arguments and the claim language that each such comment in the prosecution history was addressing.   This submission shall also include the parts of the prosecution history relevant to plaintiffs' assertion that it withdrew any representation that "skin" is not covered by the patents-in-suit before they were issued.

2.   Reply memoranda, if any, shall be filed by April 1, 2015.

3.   A Markman hearing will begin at 10:00 a.m. on April 8, 2015, and will continue on April 9, 2015, if necessary.

UNITED STATES DISTRICT JUDGE