

SANTORO, DRIGGS, WALCH,  
KEARNEY, HOLLEY & THOMPSON



1 James E. Whitmire, Esq. (NV Bar No. 6533)  
 2 SANTORO, DRIGGS, WALCH,  
 3 KEARNEY, HOLLEY & THOMPSON  
 4 400 S. Fourth Street, Third Floor  
 5 Las Vegas, NV 89101  
 6 Telephone: 702-791-0308  
 7 Facsimile: 702-791-1912  
 8 jwhitmire@nevadafirm.com

9 *Of Counsel:*  
 10 Robert F. Green  
 11 Christopher T. Griffith  
 12 Salim A. Hasan  
 13 Kate M. Lesciotto  
 14 LEYDIG, VOIT & MAYER, LTD.  
 15 Two Prudential Plaza, Suite 4900  
 16 180 N. Stetson Avenue  
 17 Chicago, IL 60601-6731  
 18 Telephone: 312-616-5600  
 19 Facsimile: 312-616-5700  
 20 rgreen@leydig.com  
 21 cgriffith@leydig.com  
 22 shasan@leydig.com  
 23 klesciotto@leydig.com

24 *Attorneys for Defendants Lupin Limited  
 25 and Lupin Pharmaceuticals, Inc.*

26 **IN THE UNITED STATES DISTRICT COURT  
 27 FOR THE DISTRICT OF NEVADA**

28 BAYER SCHERING PHARMA AG &  
 BAYER HEALTHCARE  
 PHARMACEUTICALS INC.,

Plaintiffs,

v.

LUPIN LIMITED and LUPIN  
 PHARMACEUTICALS, INC.,

Defendants.

Civil Case No. 2:10-cv-1166-KJD-RJJ

**DEFENDANTS LUPIN LIMITED'S AND  
 LUPIN PHARMACEUTICALS, INC.'S  
 MOTION TO FILE UNDER SEAL  
 CERTAIN "CONFIDENTIAL" EXHIBITS  
 ACCOMPANYING THE  
 SUPPLEMENTAL DECLARATION OF  
 KATE M. LESCIOTTO IN SUPPORT OF  
 LUPIN'S MOTION FOR SUMMARY  
 JUDGMENT THAT THE CLAIMS OF  
 THE U.S. REISSUE PATENT ARE  
 INVALID AS OBVIOUS (DKT. 88-2)**



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Pursuant to the Protective Order in the above-captioned case (Dkt. 17), Defendants Lupin Limited and Lupin Pharmaceuticals, Inc. (collectively, “Lupin”) seek leave to file under seal certain confidential exhibits accompanying the Supplemental Declaration of Kate M. Lesciotto in Support of Lupin’s Motion for Summary Judgment That The Claims Of The U.S. Reissue Patent Are Invalid As Obvious (Dkt. 88-2) (“Supplemental Lesciotto Declaration”). In support of this Motion, Lupin states as follows:

1. The Protective Order in this case permits each party to designate certain information produced during discovery as "CONFIDENTIAL" if the designating party reasonably believes that the information should be protected from public disclosure. (Dkt. 17 at 2-3.) The Protective Order further specifies that the parties may file documents under seal under an order of this Court for cause shown. (*Id.* at 13).

2. Certain exhibits attached to the Supplemental Lesciotto Declaration consist of documents or contain citations to documents, that the parties have designated as “CONFIDENTIAL” in this case.

3. Lupin therefore seeks leave of the Court to file certain exhibits accompanying the Supplemental Lesciotto Declaration under seal.

4. In addition, Lupin has concurrently filed a public version of the exhibits to the Supplemental Lesciotto Declaration which redacts only those exhibits that need to remain confidential under the protective order. Specifically, Lupin seeks leave to file under seal Reply Exhibits 2 and 4.



1 Dated this 25th day of July, 2011.

2 **SANTORO, DRIGGS, WALCH,**  
3 **KEARNEY, HOLLEY & THOMPSON**

4 /s/ James E. Whitmire

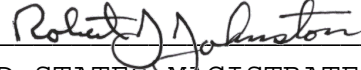
5 James E. Whitmire (NV Bar No. 6533)  
6 SANTORO, DRIGGS, WALCH, KEARNEY,  
7 HOLLEY & THOMPSON  
8 400 S. Fourth Street, Third Floor  
9 Las Vegas, NV 89101  
10 Telephone: 702-791-0308  
11 Facsimile: 702-791-1912  
12 jwhitmire@nevadafirm.com

13 *Of Counsel:*

14 Robert F. Green  
15 Christopher T. Griffith  
16 Salim A. Hasan  
17 Kate M. Lesciotto  
18 Leydig, Voit & Mayer, Ltd.  
19 Two Prudential Plaza, Suite 4900  
20 180 N. Stetson Avenue  
21 Chicago, IL 60601-6731  
22 Telephone: 312-616-5600  
23 Facsimile: 312-616-5700  
24 rgreen@leydig.com  
25 cgriffith@leydig.com  
26 shasan@leydig.com  
27 klesciotto@leydig.com

18 *Attorneys for Defendants Lupin Limited*  
19 *and Lupin Pharmaceuticals, Inc.*

22 IT IS SO ORDERED.

23   
24 \_\_\_\_\_  
25 UNITED STATES MAGISTRATE JUDGE  
26 DATE: JULY 26, 2011