

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SCHERING CORPORATION, et al.,

Plaintiffs,

v.

MYLAN PHARMACEUTICALS, INC., et
al.,

Defendants.

Civil Action No.: 09-6383 (JLL)

ORDER

This matter having come before the Court by way of two motions for partial summary judgment filed by Plaintiffs, Schering Corporation and MSP Singapore Company LLC (collectively, “Schering”), on July 8, 2011 (CM/ECF Nos. 240 & 241), seeking summary judgment on certain claims, defenses, and counterclaims asserted with respect to United States Patent Nos. RE37,721 (“the ‘721 patent”), 5,846,966 (“the ‘966 patent”), and RE42,461 (“the ‘461 patent”); and for the reasons set forth in this Court’s corresponding Opinion;

IT IS on this 22nd day of August, 2011,

ORDERED that Schering’s motion for partial summary judgment on the issue of inequitable conduct for certain statements regarding atherosclerosis (CM/ECF No. 240) is DENIED without prejudice to Schering’s right to refile in the event that Mylan’s Second Amended Answer, or other filing, fails to withdraw the relevant defenses or counterclaims within 30 days of entry of this Order; and it is further

ORDERED that Schering’s motion for partial summary judgment on the issue of

inequitable conduct for failure to disclose metabolite information (CM/ECF No. 240) is DENIED; and it is further

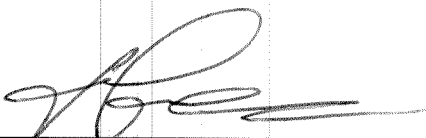
ORDERED that Schering's motion for partial summary judgment on the issue of infringement of claims 3 and 10–12 of the '461 patent and claims 2–4 of the '966 patent (CM/ECF No. 241) is GRANTED; and it is further

ORDERED that Schering's motion for partial summary judgment on the issue of the definiteness of claims 8, 9, 12, and 13 of the '461 patent and claims 1 through 10 of the '966 patent (CM/ECF No. 241) is GRANTED; and it is further

ORDERED that Schering's motion for partial summary judgment on the issue of inherent anticipation of the '461 patent (CM/ECF No. 241) is DENIED without prejudice to Schering's right to refile in the event that Mylan's Second Amended Answer, or other filing, fails to withdraw the relevant defenses or counterclaims within 30 days of entry of this Order; and it is further

ORDERED that Schering's motion for partial summary judgment on the issue of the enablement of claims 8, 9, 12, and 13 of the '461 patent (CM/ECF No. 241) is DENIED.

IT IS SO ORDERED.



JOSE L. LINARES
UNITED STATES DISTRICT JUDGE