



U.S. Department of Justice

Civil Division

WWB
27-9545

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Washington, DC 20530

October 9, 2013

VIA ECF

The Honorable William H. Walls, U.S.D.J.
United States District Court
Martin Luther King, Jr. Federal Building
50 Walnut Street, Room 4046
Newark, New Jersey 07102

The Honorable Cathy L. Waldor, U.S.M.J.
United States District Court
Martin Luther King, Jr. Federal Building
50 Walnut Street
Newark, New Jersey 07102

Re: *Janssen Products, L.P., et al. v. Lupin Limited, et al.*
Civil Action No. 10-5954 (WHW)(CLW)

Dear Judge Walls and Magistrate Judge Waldor:

We represent The United States of America (the “Government”) in the above-captioned matter. On behalf of the Government, we write to move for an emergency stay of proceedings in this case¹ due to the government shutdown.

As the Court is undoubtedly aware, at the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. Accordingly, Department of Justice attorneys and employees of the Department of Health and Human Services, the principal federal agency involved in this suit, are

¹ The Government and its co-plaintiff the University of Illinois (the “University”) are co-owners of United States Patent No. 7,470,506 B1 (the ‘506 patent), which is being asserted against Defendants Lupin Limited, Lupin Pharmaceuticals, Inc., Mylan Pharmaceuticals Inc., Mylan Inc., Teva Pharmaceuticals USA, Inc., and Teva Pharmaceutical Industries, Ltd. (collectively, “Defendants”) by the Government and the University in this action (the “‘506 patent case”). The ‘506 patent case refers solely to the action by the Government and the University against Defendants. This request does not relate to the action maintained by the Janssen Plaintiffs against the Defendants.

prohibited from working, even on a voluntary basis, except in very limited circumstances, such as “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342. Accordingly, the Government’s attorneys are unable to work on this case despite ongoing deadlines related to expert discovery and a trial.

Specifically, expert discovery is presently scheduled to proceed through October 31, 2013, and several depositions of experts have been scheduled for the remainder of this month. Allowing this discovery to proceed while Government counsel cannot attend the depositions would be severely prejudicial to the Government. Further, this stay will not prejudice the other parties in this civil litigation. In any event, any claim of prejudice is far outweighed by the prejudice to the Government of having the case proceed without its counsel being able to participate.

For the foregoing reasons, the Government respectfully requests a stay of proceedings in the ’506 patent case until the Government’s counsel can resume its normal representation. If this request is granted, the Government will notify the Court as soon as the President signs into law a budget appropriation that restores Department of Justice funding and present the Court with a modified schedule.

If this meets with Your Honors’ approval, we respectfully request that Your Honor sign the below form of endorsement and have it entered on the docket.

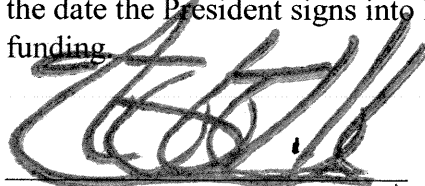
Very Truly Yours,

/s/Walter W. Brown

Walter W. Brown
Attorney
Commercial Litigation Branch
Civil Division

cc: All Counsel (via e-mail)

SO ORDERED on this 10th day of October, 2013 that the ’506 patent case is hereby stayed until the business day after the President signs into law a budget appropriation that restores Department of Justice funding. Absent other direction or order from this Court, all Court deadlines are hereby tolled during the duration of the government shutdown and extended thereafter for a period of time equal to the number of calendar days between October 1, 2013 and the date the President signs into law a budget appropriation that restores Department of Justice funding.



Hon. William H. Walls
United States Senior District Judge