APOTEX, INC. v. CEPHALON, INC. et al Doc. 547

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

APOTEX, INC., Plaintiff,	:	CIVIL ACTION
v.	:	No. 2:06-cv-2768
CEPHALON, INC., et al., Defendants.	:	

ORDER AND JUDGMENT

AND NOW, this 28th day of March, 2012, following a bench trial, and after careful review of the parties' briefs, for the reasons set out in the Memorandum Opinion filed this day, it is hereby **ORDERED** that:

1. Defendant Cephalon, Inc.'s "Motion to Preclude Certain Expert Testimony of Dr. David Beach" (Doc. No. 465) is **DENIED as MOOT**;
2. Defendant Cephalon, Inc.'s Motion for An Adverse Inference (Doc. No. 468), and Apotex, Inc.'s "Motion to Exclude Cephalon, Inc.'s Expert Reports and Testimony Regarding Testing on Modafinil Tablets" (Doc. No. 470) are **DENIED**; and
3. Judgment is entered in favor of Plaintiff, Apotex, Inc., as to Count III of the Second Amended Complaint (Doc. 195). The Court finds that the manufacture, sale or use of the modafinil product described in Abbreviated New Drug Application No. 77-667 will **NOT INFRINGE** United States Reissue Patent Number RE 37,516.

BY THE COURT:

/s/ Mitchell S. Goldberg

MITCHELL S. GOLDBERG, J.

Dockets.Justia.com