

Defendants' Exhibit 2

Wetzler, Lauren

From: Wetzler, Lauren
Sent: Friday, November 02, 2007 2:18 PM
To: 'jdesmarais@kirkland.com'; 'Nealon, James'
Subject: Summary Judgment Consent Orderv2.DOC

John and Jim,

Attached please find our proposed summary judgment briefing schedule. You will note that paragraphs 1 and 5 may need some alteration depending on whether you are filing together or separately. I will be traveling this weekend and not in great contact by e-mail, but hopefully we can finalize this on Monday or Tuesday. If you have any questions today, feel free to give me a call.

John, I wasn't sure what names GSK wanted on the briefing schedule, so I left this for you all to fill in.

Have a good weekend.

Lauren



Summary Judgment
Consent Order...

UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

TRANTAFYLLOS TAFAS,

Plaintiff,

v.

JON W. DUDAS, *et al.*,

Defendants.

CIVIL ACTION: 1:07-CV-846 (JCC/TRJ)

CONSOLIDATED WITH

SMITHKLINE BEECHAM
CORPORATION, *et al.*,

Plaintiff,

v.

JON W. DUDAS, *et al.*,

Defendants.

CIVIL ACTION: 1:07-CV-1008 (JCC/TRJ)

CONSENT ORDER REGARDING SUMMARY JUDGMENT BRIEFING SCHEDULE

WHEREAS, counsel for Plaintiffs Triantafyllos Tafas (“Tafas”) and Plaintiffs SmithKline Beecham Corp., d/b/a GlaxoSmithKline, SmithKline Beecham PLC, and Glaxo Group Limited, d/b/a GlaxoSmithKline (“GSK”; collectively with Tafas, “Plaintiffs”) and counsel for Defendants Jon W. Dudas and the United States Patent and Trademark Office (“Defendants”; “Plaintiffs” and “Defendants” are collectively referred to as the “Parties”) have conferred and agreed upon a summary judgment briefing schedule to be entered as an

amendment to and/or in substitution for any and all briefing schedules previously entered into among any of the Parties; it is hereby

ORDERED:

1. Plaintiffs shall file their brief(s) in support of their motions for summary judgment on or before Tuesday, November 13, 2007. The brief(s) referenced in this paragraph shall not exceed forty pages in length.

2. Any and all *amicus curiae* who wish to file briefs in support of Plaintiffs' motions for summary judgment shall file their briefs by Tuesday, November 20, 2007. Each brief of *amicus curiae* shall not exceed twenty pages in length.

3. Defendants shall file their brief in support of their cross-motion for summary judgment and in opposition to Plaintiffs' motions for summary judgment on or before Friday, December 21, 2007. If they so choose, Defendants may respond to the *amicus curiae* briefs referenced in #2 above in the brief that comprises their cross-motion for summary judgment and opposition to Plaintiffs' motions for summary judgment. The Parties shall consult on the appropriate page length of the brief referenced in this paragraph at a later date and shall attempt to agree upon a page extension for the Court's approval.

4. Any and all *amicus curiae* who wish to file briefs in support of Defendants' cross-motion for summary judgment shall file their briefs by Thursday, January 4, 2008. Each brief of *amicus curiae* shall not exceed twenty pages in length.

5. Plaintiffs shall file their brief(s) in opposition to Defendants' cross-motion for summary judgment and in rebuttal in support of Plaintiffs' motion for summary judgment by Monday, January 14, 2008. If they so choose, Plaintiffs may respond to the *amicus curiae* briefs referenced in #4 above in the brief(s) that comprise their opposition to Defendants' cross-motion

for summary judgment and rebuttal in support of Plaintiffs' motion for summary judgment. The Parties shall consult on the appropriate page length of the brief(s) referenced in this paragraph at a later date and, if necessary, shall attempt to agree upon page extensions for the Court's approval.

6. Defendants shall file their rebuttal brief in support of their cross-motion for summary judgment on or before Friday, February 1, 2007. The Parties shall consult on the appropriate page length of the brief referenced in this paragraph at a later date and, if necessary, shall attempt to agree upon page extensions for the Court's approval.

7. The Parties shall notice the hearing on their cross-motions for summary judgment for Friday, February 8, 2007.

8. Because this matter arises under the Administrative Procedures Act, 5 U.S.C. §§ 701-706, there shall be no discovery, and the case may be resolved on the cross-motions for summary judgment referenced herein.

9. No briefs by the Parties or by *amicus curiae* shall be filed other than those specifically authorized in this Order.

10. Defendants' cross-motion for summary judgment and opposition to Plaintiffs' motions for summary-judgment shall constitute Defendants' Answer in these consolidated cases, and no further Answer shall be required.

Dated: _____

Hon. James C. Cacheris
United States District Judge

WE AGREE TO THIS:

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[GSK ADD]