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October 10, 2018

VIA CM/ECF

Honorable Claire C. Cecchi, U.S.D.J.
United States District Court
50 Walnut Street
Newark, New Jersey 07102

Re: *Janssen Pharmaceuticals, Inc. v. Teva Pharmaceuticals USA, Inc.*
Civil Action No. 2:18-00734 (CCC)(MF)

Dear Judge Cecchi:

This firm, along with Akin Gump Strauss Hauer & Feld LLP, represents plaintiffs in the above-referenced matter. Respectfully enclosed on behalf of all parties for Your Honor's consideration is the Joint Claim Construction Statement pursuant to Local Patent Rule 4.3.

We thank the Court for its kind consideration of this submission. Should Your Honor have any questions, we are available at the Court's convenience.

Respectfully,

s/Keith J. Miller

Keith J. Miller

KJM/gd

cc: All Counsel (via CM/ECF)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JANSSEN PHARMACEUTICALS, INC.
and JANSSEN PHARMACEUTICA NV,
Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.,
Defendant.

Civil Action No. 2:18-00734 (CCC)(MF)

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Pursuant to Local Patent Rule 4.3 and the Court's May 14, 2018 Scheduling Order (D.I. 29), Plaintiffs Janssen Pharmaceuticals, Inc. and Janssen Pharmaceutica NV (collectively, "Janssen") and Defendant Teva Pharmaceuticals USA, Inc. ("Teva") hereby submit their Joint Claim Construction and Prehearing Statement concerning U.S. Pat. No. 9,439,906 (the "'906 Patent").

I. Construction of Terms

A. Agreed Constructions

There are no terms for which the parties have agreed to a construction. The parties agree that no terms, other than the one disputed term described below, are in need of construction.

B. Disputed Terms

Pursuant to Local Patent Rule 4.3(b), attached as Exhibit A is a chart identifying the single disputed claim term in this case, the parties' respective proposed constructions for that term, and the intrinsic and extrinsic evidence that each party intends to rely on in support of its proposed construction or to oppose the other party's construction. The parties may also rely on any portion of the specification and prosecution history of the '906 Patent. The parties further reserve the right to amend, correct, or supplement their claim construction positions and

supporting evidence for good cause. Janssen contends that the disputed claim term is definite and able to be construed. Teva contends that the disputed term is indefinite and incapable of being construed.

II. Claim Terms Whose Construction Will Be Most Significant to the Resolution of the Case

Janssen's position:

Janssen does not believe that construction of any claim term is necessary for resolution of this case, or that any claim term is case dispositive. The construction of the disputed claim term, which appears in two dependent claims, will not be case dispositive as to all asserted claims, and at this stage, appears to be unlikely to be substantially conducive to promoting settlement. Construction of the disputed claim term will simplify the issues for claims 17-21, because it will address Teva's contention that the claim term cannot be construed because it is insolubly ambiguous.

Teva's Position:

The disputed claim term pertains to claims 17-21 of the '906 Patent. Teva agrees that the construction of the disputed claim term will not be case dispositive and appears to be unlikely to be substantially conducive to promoting settlement. Furthermore, as the only issue is whether a claim term renders claims 17-21 invalid as failing to comply with 35 U.S.C. §112, second paragraph (indefiniteness), Teva believes that this dispute is more properly resolved based on a full record following expert discovery.

III. Anticipated Length of Time Necessary for the Claim Construction Hearing

The parties believe that the Claim Construction Hearing can be completed in two hours of attorney argument, divided evenly between Janssen and Teva. The parties agree that additional time may be necessary if live expert witness testimony is presented at the Hearing.

IV. Identification of Witnesses for the Claim Construction Hearing

The parties do not, at this time, intend to call any witnesses at the Claim Construction Hearing.

Dated: October 10, 2018

Respectfully Submitted,

s/ Keith J. Miller

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