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

FOREST LABORATORIES INC., *et al.*,

Plaintiffs,

v.

ORGENUS PHARMA INC., *et al.*,

Defendants.

Case No. 09-5105 (MLC)(DEA)

**STIPULATION AND
ORDER**

(Filed Electronically)

The Court, upon the consent and request of Plaintiffs Forest Laboratories, Inc., Forest Laboratories Holdings, Ltd., Merz Pharma GmbH & Co. KGaA, and Merz Pharmaceuticals GmbH (collectively, "Plaintiffs") and Defendants Orchid Chemicals & Pharmaceuticals, Ltd. (d/b/a Orchid Healthcare) and Orgenus Pharma Inc. (collectively, "Orchid"), hereby acknowledges the following Stipulation and issues the following Order.

STIPULATION

1. This Court has subject matter jurisdiction over this patent infringement action (the "Action") and personal jurisdiction over Plaintiffs and Orchid. Venue is proper in this Court as to Plaintiffs and Orchid.

2. In this Action, Plaintiffs have charged Orchid with infringement of United Stations Patent No. 5,061,703 (“the ‘703 Patent”) in connection with Orchid’s submission of Abbreviated new Drug Application (“ANDA”) No. 90-044 directed to generic tablets containing 5 milligrams or 10 milligrams of memantine hydrochloride per tablet to the U.S. Food and Drug Administration (“FDA”).

3. In response to Plaintiffs’ charges of patent infringement, Orchid has alleged certain defenses, including that the ‘703 Patent is invalid and/or not infringed by the generic tablet products containing 5 milligrams or 10 milligrams of memantine hydrochloride that are the subject of ANDA No. 90-044. No decision has been obtained by either party from this Court regarding these charges of infringement or these defenses.

4. Orchid admits that the submission of ANDA No. 90-044 to the FDA for the purpose of obtaining regulatory approval to engage in the commercial manufacture, use and/or sale of generic tablets containing 5 milligrams or 10 milligrams of memantine hydrochloride per tablet within the United States before the expiration of the ‘703 Patent was a technical act of infringement of that patent under U.S.C. §271(e)(2)(A). This admission is without prejudice to Orchid’s defenses that the ‘703 Patent is invalid and/or that the product described by ANDA No. 90-044 does not infringe that patent.

5. Both parties agree that all other claims and defenses set forth in their pleadings against each other, including the allegations and averments contained therein, should be dismissed, without prejudice.

Dated: April 22, 2010

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Orchid Chemicals & Pharmaceuticals,
Ltd. and Orgenus Pharma Inc.

ORDER

Accordingly, pursuant to the above Stipulation, and upon the consent and request of Plaintiffs and Orchid, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The filing of ANDA No. 90-044 was a technical act of infringement of the '703 Patent under 35 U.S.C. §271(e)(2)(A). No decision of the Court has been obtained by either party regarding the presumptive validity of the '703 Patent and/or whether the product described by ANDA No. 90-044 infringes that patent.

2. All other claims and defenses set forth in Plaintiffs' and Orchid's pleadings against each other, including the allegations and averments contained therein, are hereby dismissed, without prejudice.

3. Except for the extent permitted by 35 U.S.C. §271(e)(1), Orchid, its officers, agents, servants, employees and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby enjoined from manufacturing, using, offering to sell or selling within the United States, or importing into the United States, the generic tablet products containing 5 milligrams or 10 milligrams of memantine hydrochloride per tablet that are the subject of ANDA No. 90-044 during the life of the '703 Patent, including any extensions and pediatric exclusivities, absent a license agreement or other authorization by Plaintiffs, unless all of the asserted claims of the '703 Patent are found invalid or unenforceable by a court decision from which no appeal has been or can be taken, other than a petition for a writ of certiorari to the U.S. Supreme Court, or found not infringed by such a court decision which is relevant to the proposed use of the generic tablet products that are the subject of ANDA 90-044.

4. Plaintiffs and Orchid each expressly waive any right to appeal or otherwise move for relief from this Stipulation And Order.

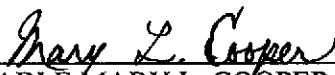
5. This Court retains jurisdiction over Plaintiffs and Orchid for purposes of enforcing this Stipulation And Order.

6. This Stipulation And Order shall finally resolve this Action between Plaintiffs and Orchid.

7. The Clerk of the Court is directed to enter this Stipulation And Order forthwith.

SO ORDERED:

This 26th day of APRIL, 2010



HONORABLE MARY L. COOPER
UNITED STATES DISTRICT JUDGE