

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ABBOTT LABORATORIES and)
ABBOTT RESPIRATORY LLC,)
)
Plaintiffs,)
) C.A. No. _____
v.)
)
SUN PHARMACEUTICAL INDUSTRIES)
LTD. and SUN PHARMA GLOBAL FZE,)
)
Defendants.)

COMPLAINT

Plaintiffs Abbott Laboratories and Abbott Respiratory LLC (collectively, “Abbott”), by their attorneys, hereby allege as follows:

NATURE OF THE ACTION

This is an action for patent infringement of U.S. Patent Nos. 6,129,930 (“the ’930 patent”), 6,406,715 (“the ’715 patent”), 6,676,967 (“the ’967 patent”), 6,746,691 (“the ’691 patent”), 6,818,229 (“the ’229 patent”), and the 7,011,848 (“the ’848 patent”) arising under the patent laws of the United States, Title 35, United States Code, 35 U.S.C. §§ 271 and 281. This action relates to Abbreviated New Drug Applications (“ANDAs”) Nos. 20-1273 and 20-0484 filed by Sun Pharmaceutical Industries Ltd. (“Sun Ltd.”) and Sun Pharma Global FZE (“Sun FZE”) (collectively “Sun”) with the U.S. Food and Drug Administration (“FDA”) for approval to market 500 mg, 750 mg, and 1000 mg niacin extended release tablets, which are generic versions of the 500 mg, 750 mg, and 1000 mg forms of Abbott’s NIASPAN[®] drug product.

RELATED ACTIONS

Abbott has filed several other patent infringement actions involving the same patents that are currently pending before the Court as described below:

- Consolidated cases *Abbott Laboratories & Abbott Respiratory LLC v. Sun Pharmaceutical Industries Ltd. & Sun Pharma Global FZE*, No. 10-112-SLR-MPT (D. Del.), and *Abbott Laboratories & Abbott Respiratory LLC v. Sun Pharmaceutical Industries Ltd. & Sun Pharma Global FZE*, No. 10-488-SLR (D. Del.), which relate to ANDA No. 20-0484 filed by Sun for approval to market generic versions of NIASPAN[®] in 500 mg and 1000 mg dosage strengths, and ANDA No. 20-1273 filed by Sun for approval to market generic versions of NIASPAN[®] in a 750 mg dosage strength, and involve the '428 and '035 patents;
- Consolidated cases *Abbott Laboratories & Abbott Respiratory LLC v. Teva Pharmaceutical Industries, Ltd. & Teva Pharmaceuticals USA, Inc.*, Nos. 10-57-SLR-MPT, 10-302-SLR-MPT, 10-766-SLR, 11-239-SLR, and 11-712 (SLR) (D. Del.), which relate to ANDA No. 200478 filed by Teva for approval to market generic versions of SIMCOR[®] in 1000 / 20 mg, 750 / 20 mg, 500 / 20 mg, 1000 / 40, 500 / 40 mg dosage strengths, respectively, and involve the '930, '715, '035, '967, '691, '848, '229, and '428 patents, and *Abbott Laboratories & Abbott Respiratory LLC v. Watson Laboratories, Inc. – Florida*, No. 10-373-SLR, 11-251-SLR, 11-607-SLR (D. Del.), which relate to ANDA No. 200601 filed by Watson for approval to market a generic version of SIMCOR[®] in 1000 / 20 mg , 500 / 40 mg, and 1000 / 40 mg dosage strengths, respectively, and also involve the '930, '715, '035, '967, '691, '848, '229, and '428 patents;
- *Abbott Laboratories & Abbott Respiratory LLC v. Sandoz Inc.*, No. 10-538-SLR (D. Del.), which relates to ANDA No. 201403 filed by Sandoz for approval to market a generic version of NIASPAN[®] in a 1000 mg dosage strength, and involves the '428,

- '229, '035 patents; *Abbott Laboratories & Abbott Respiratory LLC v. Sandoz Inc.*, No 11-145-SLR which also relates to ANDA No. 201403 filed by Sandoz for approval to market a generic version of NIASPAN[®] in 500 mg, 750 mg, and 1000 mg dosage strengths, and involves the '428 and '035 patents; and *Abbott Laboratories & Abbott Respiratory LLC v. Sandoz Inc.*, No 11-1113-SLR which relates to ANDA No. 203405 filed by Sandoz for approval to market a generic version of SIMCOR[®] in a 1000 / 40 mg dosage strength, and involves the '428 and '035 patents.
- *Abbott Laboratories & Abbott Respiratory LLC v. Mylan Inc. & Mylan Pharmaceuticals, Inc.*, No. 10-559-SLR (D. Del.), which relates to ANDA No. 201521 filed by Mylan for approval to market a generic version of SIMCOR[®] in 500 / 20 mg, 750 / 20 mg, and 1000 / 20 mg dosage strengths, and involves the '930, '715, '035, '967, '691, '848, '229, and '428 patents.
 - *Abbott Laboratories & Abbott Respiratory LLC v. Impax Laboratories, Inc.*, No. 10-1029-SLR (D. Del.), which relates to ANDA No. 202149 filed by Impax for approval to market a generic version of SIMCOR[®] in a 1000 / 20 mg dosage strength, and involves the '930, '715, '035, '967, '691, '848, '229, and '428 patents.

PARTIES

1. Abbott Laboratories is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at 100 Abbott Park Road, Abbott Park, Illinois 60064.

2. Abbott Respiratory LLC (“Abbott Respiratory”) is a limited liability corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 100 Abbott Park Road, Abbott Park, Illinois 60064.

3. Upon information and belief, Defendant Sun Ltd. is a company organized and existing under the laws of India with a place of business at Acme Plaza, Andheri-Kurla Road, Andheri (East), Mumbai-400 059, India. Upon information and belief, Sun Ltd. manufactures numerous generic drugs, including the generic drugs that are the subject of ANDA Nos. 20-1273 and 20-0484, for sale and use throughout the United States, including in this judicial district, including through its wholly-owned subsidiary Sun Pharmaceutical Industries, Inc. (“Sun Inc.”) and its affiliate Caraco Pharmaceutical Laboratories, Ltd. (“Caraco”), of which Sun Ltd. is the majority shareholder.

4. Upon information and belief, Defendant Sun FZE is a company organized and existing under the laws of the United Arab Emirates with a principal place of business at Executive Suite #43, Block Y, SAIF Zone, P.O. Box 122304, Sharjah, U.A.E. Upon information and belief, Sun FZE is a wholly-owned subsidiary of Sun Pharma Global Inc., a company incorporated under the laws of the British Virgin Islands, which is a wholly-owned subsidiary of Sun Ltd.

5. Upon information and belief, Defendants Sun Ltd. and Sun FZE acted collaboratively in the development of the generic products that are the subject of ANDA Nos. 20-1273 and 20-0484 and in the preparation and submission of ANDA Nos. 20-1273 and 20-0484. Upon information and belief, Sun FZE’s preparation and submission of ANDA Nos. 20-1273 and 20-0484 were done at the direction, under the control, and for the direct benefit of Sun Ltd.

6. Upon information and belief, and consistent with its practice with respect to other generic products, following any FDA approval of ANDA Nos. 20-1273 and 20-0484, Sun will sell its generic version of NIASPAN[®] throughout the United States.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, 35 U.S.C. §§ 100, *et seq.*, and this Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b).

8. This Court has personal jurisdiction over each of the Defendants because, *inter alia*, they each have committed, or aided, abetted, contributed to, or participated in the commission of, a tortious act of patent infringement in filing ANDA Nos. 20-1273 and 20-0484 that has led to foreseeable harm and injury to Abbott Respiratory, a Delaware corporation, and Abbott Laboratories, a corporation actively engaged in business in Delaware. This Court also has personal jurisdiction over the Defendants by virtue of, *inter alia*, their systematic and continuous contacts with Delaware as set forth below, and for other reasons that will be presented to the Court if jurisdiction is challenged.

9. Defendant Sun Ltd. has systematic and continuous contacts with Delaware by directly or through its wholly-owned subsidiary Sun Inc. and its affiliate Caraco, placing goods into the stream of commerce for distribution throughout the United States, including the State of Delaware.

10. The Court has personal jurisdiction over Defendant Sun FZE by virtue of, *inter alia*, its systematic and continuous contacts with Delaware, including through its parent corporation, Sun Ltd.

11. Each Defendant has availed itself of the legal protections of the State of Delaware, having asserted counterclaims in lawsuits filed in the United States District Court for the District of Delaware, including *Aventis Pharma S.A., et al. v. Sun Pharmaceutical Industries*

Ltd. and Sun Pharma Global FZE, Civil Action No. 1:09-cv-00630-GMS (D. Del.). In addition, each Defendant submitted to the personal jurisdiction of the State of Delaware at least in *Abbott Laboratories, et al. v. Sun Pharmaceuticals Industries Ltd, et al.*, Civil Action No. 1:10-cv-00112-SLR (D. Del.). Moreover, Sun Pharma Global Inc., the British Virgin Islands entity of which Defendant Sun FZE is a wholly-owned subsidiary, has previously admitted that this Court has personal jurisdiction over it in *Sanofi-Aventis, et al. v. Sun Pharmaceutical Industries, Ltd. et al.*, Civil Action No. 1:08-cv-00350-GMS (D. Del.).

PATENTS IN SUIT

12. Abbott Respiratory is the owner by assignment of the '930 patent, entitled "Methods and Sustained Release Nicotinic Acid Compositions for Treating Hyperlipidemia at Night," which the U.S. Patent and Trademark Office duly and legally issued on October 10, 2000. A true and correct copy of the '930 patent is attached hereto as Exhibit A. The claims of the '930 patent are valid and enforceable. Abbott Laboratories is an exclusive licensee of the '930 patent with respect to NIASPAN[®], with the right to sue for and obtain equitable relief and damages for infringement of the '930 patent.

13. Abbott Respiratory is the owner by assignment of the '715 patent, entitled "Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia Having Unique Urinary Metabolite Profiles," which the U.S. Patent and Trademark Office duly and legally issued on June 18, 2002. A true and correct copy of the '715 patent is attached hereto as Exhibit B. The claims of the '715 patent are valid and enforceable. Abbott Laboratories is an exclusive licensee of the '715 patent with respect to NIASPAN[®], with the right to sue for and obtain equitable relief and damages for infringement of the '715 patent.

14. Abbott Respiratory is the owner by assignment of the '967 patent, entitled "Methods for Reducing Flushing in Individuals Being Treated with Nicotinic Acid for Hyperlipidemia," which the U.S. Patent and Trademark Office duly and legally issued on January 13, 2004. A true and correct copy of the '967 patent is attached hereto as Exhibit C. The claims of the '967 patent are valid and enforceable. Abbott Laboratories is an exclusive licensee of the '967 patent with respect to NIASPAN[®], with the right to sue for and obtain equitable relief and damages for infringement of the '967 patent.

15. Abbott Respiratory is the owner by assignment of the '691 patent, entitled "Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia Having Unique Biopharmaceutical Characteristics," which the U.S. Patent and Trademark Office duly and legally issued on June 8, 2004. A true and correct copy of the '691 patent is attached hereto as Exhibit D. The claims of the '691 patent are valid and enforceable. Abbott Laboratories is an exclusive licensee of the '691 patent with respect to NIASPAN[®], with the right to sue for and obtain equitable relief and damages for infringement of the '691 patent.

16. Abbott Respiratory is the owner by assignment of the '229 patent, entitled "Intermediate Release Nicotinic Acid Compositions for Treating Hyperlipidemia," which the U.S. Patent and Trademark Office duly and legally issued on November 16, 2004. A true and correct copy of the '229 patent is attached hereto as Exhibit E. The claims of the '229 patent are valid and enforceable. Abbott Laboratories is an exclusive licensee of the '229 patent with respect to NIASPAN[®], with the right to sue for and obtain equitable relief and damages for infringement of the '229 patent.

17. Abbott Respiratory is the owner by assignment of the '848 patent, entitled "Hydrophobic Component Free Sustained Release Nicotinic Acid Compositions for Treating

Hyperlipidemia and Related Methods Therefor,” which the U.S. Patent and Trademark Office duly and legally issued on March 14, 2006. A true and correct copy of the ’848 patent is attached hereto as Exhibit F. The claims of the ’848 patent are valid and enforceable. Abbott Laboratories is an exclusive licensee of the ’848 patent with respect to NIASPAN[®], with the right to sue for and obtain equitable relief and damages for infringement of the ’848 patent.

18. Abbott Laboratories is the holder of New Drug Application (“NDA”) No. 20-0381 by which the FDA granted approval for the marketing and sale of 500 mg, 750 mg and 1000 mg strength niacin extended-release tablets, which Abbott markets in the United States under the trade name “NIASPAN[®]”. The formulation and dosing of NIASPAN[®] is covered by certain claims of the ’930 patent, the ’715 patent, the ’967 patent, the ’691 patent, the ’229 patent, and the ’848 patent. The FDA’s official publication of approved drugs (the “Orange Book”) includes NIASPAN[®] together with the ’930 patent, the ’715 patent, the ’967 patent, the ’691 patent, the ’229 patent, and the ’848 patent.

INFRINGEMENT BY SUN

19. By letters dated October 19, 2011, (“the Notice Letters”), Sun notified Abbott that Sun had submitted ANDA Nos. 20-1273 and 20-0484 to the FDA under Section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355(j)) seeking approval to engage in the commercial manufacture, use, and sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets before the expiration of the ’930 patent, the ’715 patent, the ’967 patent, the ’691 patent, the ’229 patent, and the ’848 patent. Upon information and belief, Sun intends to engage in commercial manufacture, use, and sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets promptly upon receiving FDA approval to do so.

20. By filing ANDA Nos. 20-1273 and 20-0484, Sun has necessarily represented to the FDA that its generic niacin extended-release tablets have the same active ingredient as NIASPAN[®], have the same route of administration, dosage form, and strengths as NIASPAN[®], and are bioequivalent to NIASPAN[®].

21. In the Notice Letters, Sun notified Abbott that its ANDAs contained a “Paragraph IV certification” asserting that, in Sun’s opinion, the ’930 patent, the ’715 patent, the ’967 patent, the ’691 patent, the ’229 patent, and the ’848 patent are invalid and/or will not be infringed by the commercial manufacture, use or sale of its generic niacin extended-release tablets.

22. This Complaint is being filed before the expiration of the forty-five days from the date Abbott received the Notice Letters.

COUNT I (INFRINGEMENT OF THE ’930 PATENT)

23. Each of the preceding paragraphs 1 to 22 is incorporated as if fully set forth.

24. Sun’s submission of ANDA Nos. 20-1273 and 20-0484 to obtain approval to engage in the commercial manufacture, use, offer to sell, or sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets prior to the expiration of the ’930 patent constitutes infringement of one or more of the claims of the ’930 patent under 35 U.S.C. § 271(e)(2)(A).

25. Upon FDA approval of Sun’s ANDA Nos. 20-1273 and 20-0484, Sun will further infringe the ’930 patent by making, using, offering to sell, and selling its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets in the United States and/or

importing such tablets into the United States, and by actively inducing and contributing to infringement by others, in violation of 35 U.S.C. § 271(a)-(c) unless enjoined by the Court.

26. Upon information and belief, Sun had actual and constructive knowledge of the '930 patent prior to filing ANDA Nos. 20-1273 and 20-0484 and was aware that filing of the aforementioned ANDAs with the FDA constituted an act of infringement of the '930 patent.

27. If Sun's infringement of the '930 patent is not enjoined, Abbott will suffer substantial and irreparable harm for which there is no remedy at law.

COUNT II (INFRINGEMENT OF THE '715 PATENT)

28. Each of the preceding paragraphs 1 to 27 is incorporated as if fully set forth.

29. Sun's submission of ANDA Nos. 20-1273 and 20-0484 to obtain approval to engage in the commercial manufacture, use, offer to sell, or sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets prior to the expiration of the '715 patent constitutes infringement of one or more of the claims of the '715 patent under 35 U.S.C. § 271(e)(2)(A).

30. Upon FDA approval of Sun's ANDA Nos. 20-1273 and 20-0484, Sun will further infringe the '715 patent by making, using, offering to sell, and selling its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets in the United States and/or importing such tablets into the United States, and by actively inducing and contributing to infringement by others, in violation of 35 U.S.C. § 271(a)-(c) unless enjoined by the Court.

31. Upon information and belief, Sun had actual and constructive knowledge of the '715 patent prior to filing ANDA Nos. 20-1273 and 20-0484 and was aware that filing of the aforementioned ANDAs with the FDA constituted an act of infringement of the '715 patent.

32. If Sun's infringement of the '715 patent is not enjoined, Abbott will suffer substantial and irreparable harm for which there is no remedy at law.

COUNT III (INFRINGEMENT OF THE '967 PATENT)

33. Each of the preceding paragraphs 1 to 32 is incorporated as if fully set forth.

34. Sun's submission of ANDA Nos. 20-1273 and 20-0484 to obtain approval to engage in the commercial manufacture, use, offer to sell, or sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets prior to the expiration of the '967 patent constitutes infringement of one or more of the claims of the '967 patent under 35 U.S.C. § 271(e)(2)(A).

35. Upon FDA approval of Sun's ANDA Nos. 20-1273 and 20-0484, Sun will further infringe the '967 patent by making, using, offering to sell, and selling its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets in the United States and/or importing such tablets into the United States, and by actively inducing and contributing to infringement by others, in violation of 35 U.S.C. § 271(a)-(c) unless enjoined by the Court.

36. Upon information and belief, Sun had actual and constructive knowledge of the '967 patent prior to filing ANDA Nos. 20-1273 and 20-0484 and was aware that filing of the aforementioned ANDAs with the FDA constituted an act of infringement of the '967 patent.

37. If Sun's infringement of the '967 patent is not enjoined, Abbott will suffer substantial and irreparable harm for which there is no remedy at law.

COUNT IV (INFRINGEMENT OF THE '691 PATENT)

38. Each of the preceding paragraphs 1 to 37 is incorporated as if fully set forth.

39. Sun's submission of ANDA Nos. 20-1273 and 20-0484 to obtain approval to engage in the commercial manufacture, use, offer to sell, or sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets prior to the expiration of the '691 patent constitutes infringement of one or more of the claims of the '691 patent under 35 U.S.C. § 271(e)(2)(A).

40. Upon FDA approval of Sun's ANDA Nos. 20-1273 and 20-0484, Sun will further infringe the '691 patent by making, using, offering to sell, and selling its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets in the United States and/or importing such tablets into the United States, and by actively inducing and contributing to infringement by others, in violation of 35 U.S.C. § 271(a)-(c) unless enjoined by the Court.

41. Upon information and belief, Sun had actual and constructive knowledge of the '691 patent prior to filing ANDA Nos. 20-1273 and 20-0484 and was aware that filing of the aforementioned ANDAs with the FDA constituted an act of infringement of the '691 patent.

42. If Sun's infringement of the '691 patent is not enjoined, Abbott will suffer substantial and irreparable harm for which there is no remedy at law.

COUNT V (INFRINGEMENT OF THE '229 PATENT)

43. Each of the preceding paragraphs 1 to 42 is incorporated as if fully set forth.

44. Sun's submission of ANDA Nos. 20-1273 and 20-0484 to obtain approval to engage in the commercial manufacture, use, offer to sell, or sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets prior to the expiration of the '229 patent constitutes infringement of one or more of the claims of the '229 patent under 35 U.S.C. § 271(e)(2)(A).

45. Upon FDA approval of Sun's ANDA Nos. 20-1273 and 20-0484, Sun will further infringe the '229 patent by making, using, offering to sell, and selling its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets in the United States and/or importing such tablets into the United States, and by actively inducing and contributing to infringement by others, in violation of 35 U.S.C. § 271(a)-(c) unless enjoined by the Court.

46. Upon information and belief, Sun had actual and constructive knowledge of the '229 patent prior to filing ANDA Nos. 20-1273 and 20-0484 and was aware that filing of the aforementioned ANDAs with the FDA constituted an act of infringement of the '229 patent.

47. If Sun's infringement of the '229 patent is not enjoined, Abbott will suffer substantial and irreparable harm for which there is no remedy at law.

COUNT VI (INFRINGEMENT OF THE '848 PATENT)

48. Each of the preceding paragraphs 1 to 47 is incorporated as if fully set forth.

49. Sun's submission of ANDA Nos. 20-1273 and 20-0484 to obtain approval to engage in the commercial manufacture, use, offer to sell, or sale of its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets prior to the expiration of the '848 patent constitutes infringement of one or more of the claims of the '848 patent under 35 U.S.C. § 271(e)(2)(A).

50. Upon FDA approval of Sun's ANDA Nos. 20-1273 and 20-0484, Sun will further infringe the '848 patent by making, using, offering to sell, and selling its 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets in the United States and/or importing such tablets into the United States, and by actively inducing and contributing to infringement by others, in violation of 35 U.S.C. § 271(a)-(c) unless enjoined by the Court.

51. Upon information and belief, Sun had actual and constructive knowledge of the '848 patent prior to filing ANDA Nos. 20-1273 and 20-0484 and was aware that filing of the aforementioned ANDAs with the FDA constituted an act of infringement of the '848 patent.

52. If Sun's infringement of the '848 patent is not enjoined, Abbott will suffer substantial and irreparable harm for which there is no remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Abbott prays that this Court grant the following relief:

1. A judgment that one or more claims of the '930 patent, the '715 patent, the '967 patent, the '691 patent, the '229 patent, and the '848 patent are infringed by Sun's submission of ANDA Nos. 20-1273 and 20-0484, and that Sun's making, using, offering to sell, or selling in the United States, or importing into the United States, of Sun's 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets will infringe the '930 patent, the '715 patent, the '967 patent, the '691 patent, the '229 patent, and the '848 patent;

2. An order pursuant to 35 U.S.C. § 271(e)(4)(A) providing that the effective date of any approval of ANDA Nos. 20-1273 and 20-0484 shall be a date which is not earlier than the latest expiration date of the '930 patent, the '715 patent, the '967 patent, the '691 patent, the '229 patent, and the '848 patent, including any extensions and/or additional periods of exclusivity to which Abbott is or becomes entitled;

3. An order permanently enjoining Sun, its affiliates, subsidiaries, and each of its officers, agents, servants and employees and those acting in privity or concert with them, from making, using, offering to sell, or selling in the United States, or importing into the United States Sun's 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets until after the latest expiration date of the '930 patent, the '715 patent, the '967 patent, the '691 patent, the '229

patent, and the '848 patent, including any extensions and/or additional periods of exclusivity to which Abbott is or becomes entitled;

4. Damages or other monetary relief to Abbott if Sun engages in commercial manufacture, use, offers to sell, sale, or importation in or into the United States of Sun's 500 mg, 750 mg, and 1000 mg generic niacin extended-release tablets prior to the latest expiration date of the '930 patent, the '715 patent, the '967 patent, the '691 patent, the '229 patent, and the '848 patent, including any extensions and/or additional periods of exclusivity to which Abbott is or becomes entitled.

5. Such further and other relief as this Court deems proper and just, including any appropriate relief under 35 U.S.C. § 285.

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