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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RHODES PHARMACEUTICALS L.P., **Plaintiff,** **v.** **ACTAVIS, INC., ACTAVIS ELIZABETH LLC, ACTAVIS LLC, and ALLERGAN PLC,** **Defendants.**	**Civil Action No. _____** **COMPLAINT FOR PATENT INFRINGEMENT** **(Filed Electronically)**

Plaintiff Rhodes Pharmaceuticals L.P. ("Rhodes" or "Plaintiff") for its Complaint against Defendants Actavis, Inc., Actavis Elizabeth LLC ("Actavis Elizabeth"), Actavis LLC and Allergan plc (collectively, "Actavis" or "Defendants") hereby alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement 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 Application ("ANDA") No. 208861 filed by or for the benefit of Defendants with the United States Food and Drug Administration ("FDA") for approval to market generic versions of Plaintiff's Aptensio XR® pharmaceutical products that are sold in the United States.

THE PARTIES

2. Plaintiff Rhodes Pharmaceuticals L.P. ("Rhodes") is a limited partnership organized and existing under the laws of the State of Delaware, having a principal place of business at 498 Washington Street, Coventry, RI 02816. Rhodes is the registered holder of approved New Drug Application No. 205831, which covers Aptensio XR®.

3. Upon information and belief, Defendant Actavis Elizabeth is a limited liability company organized and existing under the laws of the State of Delaware, having its principal place of business at 200 Elmora Avenue, Elizabeth, New Jersey 07207. Actavis Elizabeth is registered to do business in New Jersey under Business I.D. No. 0600272818. Upon information and belief, Actavis Elizabeth is in the business of, *inter alia*, developing, manufacturing, and obtaining regulatory approval of generic copies of branded pharmaceutical products throughout the United States, including within this Judicial District.

4. Upon information and belief, Actavis, Inc. is a Nevada corporation, having its principal place of business at 400 Interpace Parkway, Parsippany, New Jersey 07054. Actavis, Inc. is registered to do business in New Jersey under Business I.D. No. 0101005391. Upon information and belief, Actavis, Inc. is in the business of, *inter alia*, developing, manufacturing, and obtaining regulatory approval of generic copies of branded pharmaceutical products throughout the United States, including within this Judicial District.

5. Upon information and belief, Defendant Actavis LLC is a limited liability company organized and existing under the laws of Delaware, having its principal place of business at 400 Interpace Parkway, Parsippany, New Jersey 07054. On information and belief, Actavis LLC was formerly known as Actavis Inc.

6. Upon information and belief, Defendant Allergan plc, f/k/a Actavis plc, is a publicly-traded company organized and existing under the laws of Ireland, having its corporate headquarters at Clonshaugh Business and Technology Park, Coolock, Dublin, D17 E400, Ireland, and U.S. administrative headquarters at 400 Interpace Parkway, Parsippany, New Jersey 07054.

7. Upon information and belief, Actavis Elizabeth is a wholly owned subsidiary of Actavis, Inc. On information and belief, Actavis, Inc. is a wholly owned subsidiary of Allergan plc. On information and belief, Actavis Inc., and Actavis Elizabeth have at least one officer and/or director in common. On information and belief, Allergan plc is the global parent of, *inter alia*, Actavis LLC, Actavis Elizabeth, and Actavis, Inc.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over Actavis, Inc., by virtue of, *inter alia*, its systematic and continuous contacts with the State of New Jersey. Upon information and belief, Actavis, Inc. maintains its principal place of business in New Jersey, is registered to do business in New Jersey, and either directly or through one or more of its wholly owned subsidiaries and/or agents, develops, manufactures, distributes, markets, offers to sell, and sells generic drug products for sale and use throughout the United States, including within this Judicial District.

10. This Court has personal jurisdiction over Actavis Elizabeth by virtue of, *inter alia*, its systematic and continuous contacts with the State of New Jersey. Upon information and belief, Actavis Elizabeth maintains its principal place of business in New Jersey, is registered to do business in New Jersey, and directly or indirectly develops, manufactures, distributes,

markets, offers to sell, and sells generic drug products for sale and use throughout the United States, including within this Judicial District.

11. This Court has personal jurisdiction over Actavis LLC by virtue of, *inter alia*, its systematic and continuous contacts with the State of New Jersey. Upon information and belief, Actavis LLC maintains its principal place of business in New Jersey and directly or indirectly develops, manufactures, distributes, markets, offers to sell, and sells generic drug products for sale and use throughout the United States, including within this Judicial District.

12. This Court has personal jurisdiction over Allergan plc by virtue of, *inter alia*, its systematic and continuous contacts with the State of New Jersey. Upon information and belief, Allergan plc maintains its U.S. administrative headquarters in New Jersey and directly or indirectly develops, manufactures, distributes, markets, offers to sell, and sells generic drug products, including generic drug products manufactured by Actavis LLC, for sale and use throughout the United States, including within this Judicial District. According to Allergan plc's Form 10-Q, filed November 6, 2015, "Allergan plc is a global specialty pharmaceutical company engaged in the development, manufacturing, marketing, and distribution of brand name [], medical aesthetics, generic, branded generic, biosimilar and over-the-counter [] pharmaceutical products." Upon information and belief, Allergan plc purposefully has conducted and continues to conduct business in this Judicial District. Upon information and belief, Allergan plc conducts research and development activities and manufactures finished products in the State of New Jersey, and owns property, including facilities used for research and development and manufacturing, in the State of New Jersey.

13. Because Defendants are headquartered and/or registered to do business in New Jersey, they are subject to general personal jurisdiction in this Judicial District.

14. Upon information and belief, Actavis, Inc. sells products manufactured by Actavis Elizabeth in New Jersey and throughout the United States.

15. Upon information and belief, Actavis LLC, Actavis, Inc., Actavis Elizabeth, and Allergan plc operate as a single integrated business. Upon information and belief, Allergan plc's Form 10-Q, filed November 6, 2015, and Form 10-K, filed February 26, 2016, indicate that it files a single financial report to the SEC for itself and its subsidiaries. Upon information and belief, Allergan plc, Actavis Elizabeth, and Actavis, Inc. share at least one corporate officer.

16. Upon information and belief, Actavis LLC, Actavis Elizabeth, and Actavis, Inc. have previously submitted to the jurisdiction of this Court. Upon information and belief, Actavis LLC and Actavis Elizabeth have availed themselves of the legal protections of the State of New Jersey, having asserted counterclaims in this jurisdiction.

17. Upon information and belief, Defendants acted in concert to develop the generic Methylphenidate Hydrochloride Extended-Release Capsules described in ANDA No. 208861 and to seek approval from the FDA to sell such products throughout the United States, including within this Judicial District.

18. Upon information and belief, upon approval of ANDA No. 208861, the Defendants and/or their subsidiaries, affiliates or agents will market, sell and/or distribute the generic pharmaceutical products that are the subject of that ANDA throughout the United States, including in this Judicial District, and will derive substantial revenue therefrom.

19. Upon information and belief, venue is proper in this Judicial District under 28 U.S.C. §§ 1391(c) and (d), and § 1400(b).

THE PATENTS-IN-SUIT

20. United States Patent No. 6,419,960 ("the '960 Patent"), entitled "Controlled Release Formulations Having Rapid Onset and Rapid Decline of Effective Plasma Drug Concentrations" was duly and legally issued by the United States Patent and Trademark Office ("the USPTO") on July 16, 2002. Plaintiff Rhodes is the owner of the entire right, title, and interest in the '960 Patent by assignment, and possesses the right to sue for and obtain equitable relief and damages for infringement of the '960 Patent. A true and correct copy of the '960 Patent is attached as Exhibit A.

21. United States Patent No. 7,083,808 ("the '808 Patent"), entitled "Controlled/Modified Release Oral Methylphenidate Formulations" was duly and legally issued by the USPTO on August 1, 2006. Plaintiff Rhodes is the owner of the entire right, title, and interest in the '808 Patent by assignment, and possesses the right to sue for and obtain equitable relief and damages for infringement of the '808 Patent. A true and correct copy of the '808 Patent is attached as Exhibit B.

22. United States Patent No. 7,247,318 ("the '318 Patent"), entitled "Controlled Release Formulations Having Rapid Onset and Rapid Decline of Effective Plasma Drug Concentrations" was duly and legally issued by the USPTO on July 24, 2007. Plaintiff Rhodes is the owner of the entire right, title, and interest in the '318 Patent by assignment, and possesses the right to sue for and obtain equitable relief and damages for infringement of the '318 Patent. A true and correct copy of the '318 Patent is attached as Exhibit C.

23. United States Patent No. 7,438,930 ("the '930 Patent"), entitled "Controlled Release Formulations Having Rapid Onset and Rapid Decline of Effective Plasma Drug Concentrations" was duly and legally issued by the USPTO on October 21, 2008. Plaintiff

Rhodes is the owner of the entire right, title, and interest in the ’930 Patent by assignment, and possesses the right to sue for and obtain equitable relief and damages for infringement of the ’930 Patent. A true and correct copy of the ’930 Patent is attached as Exhibit D.

24. United States Patent No. 8,580,310 (“the ’310 Patent”), entitled “Controlled Release Formulations Having Rapid Onset and Rapid Decline of Effective Plasma Drug Concentrations” was duly and legally issued by the USPTO on November 12, 2013. Plaintiff Rhodes is the owner of the entire right, title, and interest in the ’310 Patent by assignment, and possesses the right to sue for and obtain equitable relief and damages for infringement of the ’310 Patent. A true and correct copy of the ’310 Patent is attached as Exhibit E.

25. United States Patent No. 9,066,869 (“the ’869 Patent”), entitled “Controlled Release Formulations Having Rapid Onset and Rapid Decline of Effective Plasma Drug Concentrations” was duly and legally issued by the USPTO on June 30, 2015. Plaintiff Rhodes is the owner of the entire right, title, and interest in the ’869 Patent by assignment, and possesses the right to sue for and obtain equitable relief and damages for infringement of the ’869 Patent. A true and correct copy of the ’869 Patent is attached as Exhibit F.

APTENSIO XR®

26. Rhodes is the holder of New Drug Application (“NDA”) No. 205831 for Aptensio XR® Methylphenidate Hydrochloride Extended-Release Capsules. Aptensio XR® was approved by the FDA on April 17, 2015 as 10 mg, 15 mg, 20 mg, 30 mg, 40 mg, 50 mg, and 60 mg dosages. In conjunction with NDA No. 205831, the ’960 Patent, ’808 Patent, ’318 Patent, ’930 Patent, ’310 Patent, and ’869 Patent are listed in the FDA’s Approved Drug Products with Therapeutic Equivalence Evaluations (“the Orange Book”) for Aptensio XR®.

ACTAVIS'S INFRINGING ANDA SUBMISSION

27. Upon information and belief, Actavis Elizabeth filed or caused to be filed with the FDA ANDA No. 208861, under Section 505(j) of the Federal Food Drug and Cosmetic Act and 21 U.S.C. § 355(j) to obtain FDA approval for the commercial manufacture, use, sale, offer for sale, and/or importation in the United States of Methylphenidate Hydrochloride Extended-Release Capsules, 10 mg, 15 mg, 20 mg, 40 mg, 50 mg and 60 mg dosages. On information and belief, Actavis Elizabeth also filed an amendment to ANDA No. 208861 to obtain FDA approval for the commercial manufacture, use, sale, offer for sale, and/or importation in the United States of Methylphenidate Hydrochloride Extended-Release Capsules, 30 mg dosage ("Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules"), which are a generic version of Plaintiff's 30 mg Aptensio XR® Methylphenidate Hydrochloride Extended-Release Capsules.

28. By letter dated March 28, 2016 (the "ANDA Notice Letter"), Actavis Elizabeth notified Plaintiff that Actavis Elizabeth had amended ANDA No. 208861 seeking approval to market Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules prior to the expiration of the '960 Patent, '808 Patent, '318 Patent, '930 Patent, '310 Patent, and '869 Patent, and that Actavis Elizabeth was providing information to Plaintiff pursuant to 21 U.S.C. § 355(j)(2)(B) and 21 C.F.R. § 314.95.

29. This Complaint is being filed before the expiration of forty-five days from the date Plaintiff received the March 28, 2016 ANDA Notice Letter.

COUNT ONE: INFRINGEMENT OF THE '960 PATENT

30. Plaintiff incorporates by reference paragraphs 1-29 of this Complaint as if fully set forth herein.

31. On information and belief, Defendants submitted ANDA No. 208861 to the FDA under 21 U.S.C. § 355(j) in order to obtain approval to market Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules in the United States before the expiration of the '960 Patent.

32. By their ANDA Notice Letter, Defendants informed Plaintiff that they had submitted to the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that the '960 Patent is invalid, unenforceable, or will not be infringed by the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules.

33. Under 35 U.S.C. § 271(e)(2)(A), the submission by Defendants to the FDA of ANDA No. 208861 to obtain approval for the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules before the expiration of the '960 Patent constitutes infringement of one or more claims of the '960 Patent, either literally or under the doctrine of equivalents.

34. Upon FDA approval of Actavis's ANDA No. 208861, Actavis will further infringe the '960 Patent under 35 U.S.C. § 271(a), (b) and/or (c), by making, using, offering to sell, and selling its Methylphenidate Hydrochloride Extended-Release Capsules in the United States and/or importing such products into the United States.

35. On information and belief, Defendants were aware of the '960 Patent at the time Actavis's ANDA application was submitted to the FDA.

36. Plaintiff will be substantially and irreparably harmed by the infringing activities described above unless those activities are enjoined by this Court. Plaintiff has no adequate remedy at law.

COUNT TWO: INFRINGEMENT OF THE '808 PATENT

37. Plaintiff incorporates by reference paragraphs 1-36 of this Complaint as if fully set forth herein.

38. On information and belief, Defendants submitted ANDA No. 208861 to the FDA under 21 U.S.C. § 355(j) in order to obtain approval to market Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules in the United States before the expiration of the '808 Patent.

39. By their ANDA Notice Letter, Defendants informed Plaintiff that they had submitted to the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that the '808 Patent is invalid, unenforceable, or will not be infringed by the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules.

40. Under 35 U.S.C. § 271(e)(2)(A), the submission by Defendants to the FDA of ANDA No. 208861 to obtain approval for the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules before the expiration of the '808 Patent constitutes infringement of one or more claims of the '808 Patent, either literally or under the doctrine of equivalents.

41. Upon FDA approval of Actavis's ANDA No. 208861, Actavis will further infringe the '808 Patent under 35 U.S.C. § 271(a), (b) and/or (c), by making, using, offering to sell, and selling its Methylphenidate Hydrochloride Extended-Release Capsules in the United States and/or importing such products into the United States.

42. On information and belief, Defendants were aware of the '808 Patent at the time Actavis's ANDA application was submitted to the FDA.

43. Plaintiff will be substantially and irreparably harmed by the infringing activities described above unless those activities are enjoined by this Court. Plaintiff has no adequate remedy at law.

COUNT THREE: INFRINGEMENT OF THE '318 PATENT

44. Plaintiff incorporates by reference paragraphs 1-43 of this Complaint as if fully set forth herein.

45. On information and belief, Defendants submitted ANDA No. 208861 to the FDA under 21 U.S.C. § 355(j) in order to obtain approval to market Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules in the United States before the expiration of the '318 Patent.

46. By their ANDA Notice Letter, Defendants informed Plaintiff that they had submitted to the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that the '318 Patent is invalid, unenforceable, or will not be infringed by the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules.

47. Under 35 U.S.C. § 271(e)(2)(A), the submission by Defendants to the FDA of ANDA No. 208861 to obtain approval for the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules before the expiration of the '318 Patent constitutes infringement of one or more claims of the '318 Patent, either literally or under the doctrine of equivalents.

48. Upon FDA approval of Actavis's ANDA No. 208861, Actavis will further infringe the '318 Patent under 35 U.S.C. § 271(a), (b) and/or (c), by making, using, offering to

sell, and selling its Methylphenidate Hydrochloride Extended-Release Capsules in the United States and/or importing such products into the United States.

49. On information and belief, Defendants were aware of the ’318 Patent at the time Actavis’s ANDA application was submitted to the FDA.

50. Plaintiff will be substantially and irreparably harmed by the infringing activities described above unless those activities are enjoined by this Court. Plaintiff has no adequate remedy at law.

COUNT FOUR: INFRINGEMENT OF THE ’930 PATENT

51. Plaintiff incorporates by reference paragraphs 1-50 of this Complaint as if fully set forth herein.

52. On information and belief, Defendants submitted ANDA No. 208861 to the FDA under 21 U.S.C. § 355(j) in order to obtain approval to market Actavis’s 30 mg Methylphenidate Hydrochloride Extended-Release Capsules in the United States before the expiration of the ’930 Patent.

53. By their ANDA Notice Letter, Defendants informed Plaintiff that they had submitted to the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that the ’930 Patent is invalid, unenforceable, or will not be infringed by the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis’s 30 mg Methylphenidate Hydrochloride Extended-Release Capsules.

54. Under 35 U.S.C. § 271(e)(2)(A), the submission by Defendants to the FDA of ANDA No. 208861 to obtain approval for the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis’s 30 mg Methylphenidate Hydrochloride

Extended-Release Capsules before the expiration of the ’930 Patent constitutes infringement of one or more claims of the ’930 Patent, either literally or under the doctrine of equivalents.

55. Upon FDA approval of Actavis’s ANDA No. 208861, Actavis will further infringe the ’930 Patent under 35 U.S.C. § 271(a), (b) and/or (c), by making, using, offering to sell, and selling its Methylphenidate Hydrochloride Extended-Release Capsules in the United States and/or importing such products into the United States.

56. On information and belief, Defendants were aware of the ’930 Patent at the time Actavis’s ANDA application was submitted to the FDA.

57. Plaintiff will be substantially and irreparably harmed by the infringing activities described above unless those activities are enjoined by this Court. Plaintiff has no adequate remedy at law.

COUNT FIVE: INFRINGEMENT OF THE ’310 PATENT

58. Plaintiff incorporates by reference paragraphs 1-57 of this Complaint as if fully set forth herein.

59. On information and belief, Defendants submitted ANDA No. 208861 to the FDA under 21 U.S.C. § 355(j) in order to obtain approval to market Actavis’s 30 mg Methylphenidate Hydrochloride Extended-Release Capsules in the United States before the expiration of the ’310 Patent.

60. By their ANDA Notice Letter, Defendants informed Plaintiff that they had submitted to the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that the ’310 Patent is invalid, unenforceable, or will not be infringed by the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis’s 30 mg Methylphenidate Hydrochloride Extended-Release Capsules.

61. Under 35 U.S.C. § 271(e)(2)(A), the submission by Defendants to the FDA of ANDA No. 208861 to obtain approval for the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules before the expiration of the '310 Patent constitutes infringement of one or more claims of the '310 Patent, either literally or under the doctrine of equivalents.

62. Upon FDA approval of Actavis's ANDA No. 208861, Actavis will further infringe the '310 Patent under 35 U.S.C. § 271(a), (b) and/or (c), by making, using, offering to sell, and selling its Methylphenidate Hydrochloride Extended-Release Capsules in the United States and/or importing such products into the United States.

63. On information and belief, Defendants were aware of the '310 Patent at the time Actavis's ANDA application was submitted to the FDA.

64. Plaintiff will be substantially and irreparably harmed by the infringing activities described above unless those activities are enjoined by this Court. Plaintiff has no adequate remedy at law.

COUNT SIX: INFRINGEMENT OF THE '869 PATENT

65. Plaintiff incorporates by reference paragraphs 1-64 of this Complaint as if fully set forth herein.

66. On information and belief, Defendants submitted ANDA No. 208861 to the FDA under 21 U.S.C. § 355(j) in order to obtain approval to market Actavis's 30 mg Methylphenidate Hydrochloride Extended-Release Capsules in the United States before the expiration of the '869 Patent.

67. By their ANDA Notice Letter, Defendants informed Plaintiff that they had submitted to the FDA, pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV), a certification alleging that

the ’869 Patent is invalid, unenforceable, or will not be infringed by the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis’s 30 mg Methylphenidate Hydrochloride Extended-Release Capsules.

68. Under 35 U.S.C. § 271(e)(2)(A), the submission by Defendants to the FDA of ANDA No. 208861 to obtain approval for the commercial manufacture, use, sale, offer for sale, or importation into the United States of Actavis’s 30 mg Methylphenidate Hydrochloride Extended-Release Capsules before the expiration of the ’869 Patent constitutes infringement of one or more claims of the ’869 Patent, either literally or under the doctrine of equivalents.

69. Upon FDA approval of Actavis’s ANDA No. 208861, Actavis will further infringe the ’869 Patent under 35 U.S.C. § 271(a), (b) and/or (c), by making, using, offering to sell, and selling its Methylphenidate Hydrochloride Extended-Release Capsules in the United States and/or importing such products into the United States.

70. On information and belief, Defendants were aware of the ’869 Patent at the time Actavis’s ANDA application was submitted to the FDA.

71. Plaintiff will be substantially and irreparably harmed by the infringing activities described above unless those activities are enjoined by this Court. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A Judgment that the claims of the ’960, ’808, ’318, ’930, ‘310, and ’869 Patents (the “Patents-in-Suit”) are valid and enforceable;

B. A Judgment that the submission of ANDA No. 208861 by Defendants infringes one or more claims of each of the Patents-in-Suit under 35 U.S.C. § 271(e)(2);

C. A Judgment providing that, pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any FDA approval of Defendants' ANDA No. 208861 shall be no earlier than the latest expiration date of the Patents-in-Suit and any additional periods of exclusivity that Plaintiff is or may become entitled to;

D. A Judgment pursuant to 35 U.S.C. § 271(e)(4)(B) permanently enjoining Defendants, their officers, agents, attorneys, and employees, and all persons acting in privity or concert with any of them, from making, using, selling, offering to sell, or importing the methylphenidate hydrochloride products described in Defendants' ANDA No. 208861 prior to the latest expiration of the Patents-in-Suit and any additional periods of exclusivity to which Plaintiff is or may become entitled to;

E. Attorneys' fees in this action pursuant to 35 U.S.C. § 285;

F. Costs and expenses in this action; and

G. Such further and other relief as this Court may deem just and proper.

Dated: May 11, 2016

Respectfully submitted,

By: s/ William C. Baton

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CERTIFICATION PURSUANT TO LOCAL CIVIL RULES 11.2 & 40.1

Pursuant to Local Civil Rules 11.2 and 40.1, I hereby certify that the matter captioned *Rhodes Pharmaceuticals L.P. v. Actavis, Inc., et al.*, Civil Action No. 16-1668 (WHW)(CLW), is related to the matter in controversy because the matter in controversy involves the same plaintiff, the same defendants, the same patents, and in both cases, the defendants are seeking FDA approval to market generic versions of the same pharmaceutical product.

I further certify that, to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: May 11, 2016

Respectfully submitted,

By: s/ William C. Baton

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