

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

AVENTIS PHARMA S.A.,	)	
SANOFI-AVENTIS U.S., LLC,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 11-43-GMS
	)	
SANDOZ INC.,	)	
	)	
Defendant.	)	

**CONSENT ORDER AND JUDGMENT**

WHEREAS, on September 27, 2010, in an action related to the above-captioned action, *Aventis Pharma S.A. et al. v. Hospira, Inc. et al.*, C.A. No. 07-721-GMS (hereinafter the “Related Action”), this Court issued a Memorandum and Order (D.I. 397 in the Related Action) which, *inter alia*, found that the asserted claims of U.S. Patent Nos. 5,714,512 B1 and 5,750,561 B1 are invalid due to obviousness and are unenforceable;

WHEREAS, on September 27, 2010 this Court entered final judgment against Plaintiffs and in favor of Defendants in the Related Action (D.I. 398 in the Related Action);

WHEREAS, on October 5, 2010, Plaintiffs in the Related Action (who also are the Plaintiffs in the above-captioned action) filed a timely Notice of Appeal in the Related Action;

WHEREAS, the above-captioned action involves the same two patents, and the same asserted claims of those patents, as the Related Action; and

WHEREAS, in order to promote efficiency and economy for themselves and the Court, the parties, by their respective undersigned attorneys, subject to the approval and order of the

Court, hereby stipulate and consent to the entry of judgment in this action as set forth below;  
now therefore,

IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. This Court has jurisdiction over the subject matter of the above action and has personal jurisdiction over the parties;

2. As a result of this Court's judgment in the Related Action, Plaintiffs are collaterally estopped from asserting that Claims 7 and 33 of U.S. Patent No. 5,714,512 B1 and Claims 2, 5 and 10 of U.S. Patent No. 5,750,561 B1 are valid.

3. As a result of this Court's judgment in the Related Action, Plaintiffs are collaterally estopped from asserting that U.S. Patent Nos. 5,714,512 B1 and U.S. Patent No. 5,750,561 B1 are enforceable.

4. Accordingly, judgment is entered in favor of Defendant and against Plaintiffs as to each count of Plaintiffs' Complaint (*see* D.I. 1), as well as in favor of Defendant and against Plaintiffs as to Defendants' Second, Third, Fifth and Sixth Counterclaims (*see* D.I. 6). Defendants' First and Fourth Counterclaims, seeking declaratory judgments of noninfringement, are dismissed without prejudice.

5. Plaintiffs expressly reserve and retain any and all rights to appeal from this Judgment, and otherwise to seek appropriate modification of this Judgment should the final judgment in the Related Action be vacated and/or reversed by the United States Court of Appeals for the Federal Circuit. Should the Federal Circuit affirm the final judgment in the Related Action as to the invalidity or unenforceability of the '512 and '561 patents, Plaintiffs would waive any and all rights to appeal from this Judgment or seek modification of this Judgment. Should the Federal Circuit vacate or reverse the final judgment in the Related Action as to the

invalidity and unenforceability of the '512 and '561 patents, Plaintiffs would retain all rights to reinstate its infringement claims as to the '512, '561 patents.

6. Judgment is entered without an award of costs, expenses, or attorneys' fees to any party.

ASHBY & GEDDES

YOUNG CONAWAY STARGATT & TAYLOR, LLP

*/s/ Tiffany Geyer Lydon*

*/s/ Pilar G. Kraman*

Steven J. Balick (I.D. #2114)  
Tiffany Geyer Lydon (I.D. #3950)  
Andrew C. Mayo (I.D. #5207)  
500 Delaware Avenue, 8th Floor  
P.O. Box 1150  
Wilmington, DE 19899  
302-654-1888

John W. Shaw (I.D. #3362)  
Pilar G. Kraman (I.D. #5199)  
The Brandywine Building  
1000 West Street, 17th Floor  
Wilmington, DE 19801  
302-571-6600

*Attorneys for Plaintiffs*

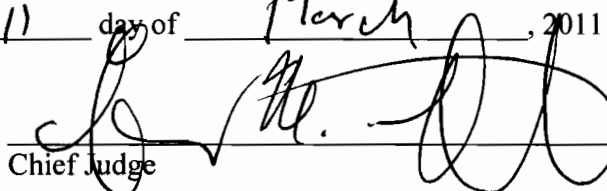
*Attorneys for Defendant*

*Of Counsel:*

*Of Counsel:*

George F. Pappas  
Christopher N. Sipes  
Kevin B. Collins  
Michael N. Kennedy  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
202-662-6000

David C. Doyle  
M. Andrew Woodmansee  
E. Cary Miller  
Stephen Keane  
MORRISON & FOERSTER LLP  
12531 High Bluff Drive, Suite 100  
San Diego, California 92130-2040  
858-720-5100

SO ORDERED this 11<sup>th</sup> day of March, 2011  
  
Chief Judge