

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

In Re: Rosuvastatin Calcium Patent	:	
Litigation	:	MDL No. 08-1949
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	:	<b>REDACTED PUBLIC VERSION</b>
AstraZeneca Pharmaceuticals LP,	:	
AstraZeneca UK Limited, IPR	:	
Pharmaceuticals Inc., and	:	
Shionogi Seiyaku Kabushiki Kaisha,	:	
	:	
Plaintiffs,	:	
	:	Civ. No. 07-807-JJF-LPS
v.	:	
	:	
Sandoz Inc.,	:	
	:	
Defendant.	:	
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**MEMORANDUM ORDER**

Plaintiffs in this ANDA patent litigation have moved to compel production of documents, and deposition testimony, relating to research and development efforts into [REDACTED] [REDACTED] Defendant

Sandoz, Inc. ("Sandoz") objected on grounds including lack of relevance and undue burden. In an effort to compromise and avoid necessity of judicial involvement in this dispute, Plaintiffs' narrowed their request; Sandoz gathered certain responsive documents and produced some of them in redacted form.

Unable, nonetheless, fully to resolve their differences, the matter was addressed during a May 8, 2009 teleconference with the Court. The Court did not make a ruling but, rather, advised the parties of its tentative judgments regarding the issues presented. The Court directed the parties to meet and confer and attempt to resolve the dispute. Thereafter, the parties each made further offers to compromise but failed to settle their differences.

Having fully considered the parties' various submissions relating to this issue, as well as the arguments made during the teleconference, the Court makes the following findings:

A. The [REDACTED] documents and testimony sought by Plaintiffs are relevant (e.g., to rebutting an obviousness defense), though only marginally so.

B. The burden that would be entailed in requiring Sandoz to [REDACTED] [REDACTED] to search for additional responsive documents would be substantial, given particularly the age of the documents and the manner in which they are kept.

In light of these findings, IT IS HEREBY ORDERED THAT:

1. Sandoz shall produce to Plaintiffs unredacted versions of all responsive documents that it has already produced in redacted form in response to Plaintiffs' request for documents. Sandoz shall make such production within three days of the date of this Order.

2. Sandoz shall produce to Plaintiffs unredacted versions of all responsive documents already in the possession and control of its counsel that Sandoz has withheld solely on the basis that they relate only to [REDACTED]. Sandoz shall make such production within three days of the date of this Order.

3. Sandoz shall also, within three days of the date of this Order, produce unredacted versions of documents responsive to the related subpoena to [REDACTED] [REDACTED]

4. Deposition questions relating to [REDACTED] are not objectionable based on assertions of lack of relevance or undue burden or overbreadth.

5. Sandoz shall not have to conduct additional searches for responsive documents unless, following review by Plaintiffs of the documents Sandoz is hereby ordered to produce and following the noticed depositions at which Plaintiffs intend to explore the topic of [REDACTED] Plaintiffs can demonstrate good cause for such additional searches. Such a

showing shall require, at minimum, that Plaintiffs demonstrate that the relevance of documents likely to be identified outweighs the burden on Sandoz of identifying them.

5. In all respects other than noted above Plaintiffs' motion to compel is DENIED.

With respect to Plaintiffs' related subpoena to third-party Dr. Scallen, IT IS HEREBY ORDERED that Plaintiffs and Sandoz advise the Court, by joint letter, within three days of the date of this Order, of their understanding as to: (i) the identity of the party to the consulting agreement with Dr. Scallen, (ii) the identity of counsel for such entity, and (iii) whether this entity objects to Dr. Scallen's production of responsive documents. Sandoz shall also state whether it has any objections to production by Dr. Scallen of responsive documents. Counsel for the party to the agreement with Dr. Scallen may participate in the preparation of the joint letter if he or she wishes to do so.

This Order is being issued UNDER SEAL. The sealing of this Order shall expire, and this Order shall be made public, three days after the date of issuance of this Order unless, prior to that date, the parties submit a proposed redacted version of this Order.

DATED: MAY 28<sup>TH</sup>, 2009

[PUBLIC VERSION RELEASED  
JUNE 3, 2009]

  
UNITED STATES MAGISTRATE JUDGE