

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: ROSUVASTATIN CALCIUM	:	MDL No. 08-1949-JJF
PATENT LITIGATION,	:	
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ASTRAZENECA PHARMACEUTICALS	:	
LP, ASTRAZENECA UK LIMITED,	:	
IPR PHARMACEUTICALS INC., AND	:	
SHIONOGI SEIYAKU KABUSHIKI	:	
KAISHA,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 07-805-JJF-LPS
	:	
MYLAN PHARMACEUTICALS INC.,	:	
	:	
Defendant.	:	
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ASTRAZENECA PHARMACEUTICALS	:	
LP, ASTRAZENECA UK LIMITED,	:	
IPR PHARMACEUTICALS INC., AND	:	
SHIONOGI SEIYAKU KABUSHIKI	:	
KAISHA,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 07-806-JJF-LPS
	:	
SUN PHARMACEUTICAL INDUSTRIES	:	
LTD.,	:	
	:	
Defendant.	:	
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ASTRAZENECA PHARMACEUTICALS	:	
LP, ASTRAZENECA UK LIMITED,	:	
IPR PHARMACEUTICALS INC., AND	:	
SHIONOGI SEIYAKU KABUSHIKI	:	
KAISHA,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civil Action No. 07-807-JJF-LPS
	:	
SANDOZ INC.,	:	
	:	
Defendant.	:	
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ASTRAZENECA PHARMACEUTICALS :  
LP, ASTRAZENECA UK LIMITED, :  
IPR PHARMACEUTICALS INC., AND :  
SHIONOGI SEIYAKU KABUSHIKI :  
KAISHA, :

Plaintiffs, :

v. :

Civil Action No. 07-808-JJF-LPS

PAR PHARMACEUTICALS INC., :

Defendant. :

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ASTRAZENECA PHARMACEUTICALS :  
LP, ASTRAZENECA UK LIMITED, :  
IPR PHARMACEUTICALS INC., AND :  
SHIONOGI SEIYAKU KABUSHIKI :  
KAISHA, :

Plaintiffs, :

v. :

Civil Action No. 07-809-JJF-LPS

APOTEX CORP., :

Defendants. :

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ASTRAZENECA PHARMACEUTICALS :  
LP, ASTRAZENECA UK LIMITED, :  
IPR PHARMACEUTICALS INC., AND :  
SHIONOGI SEIYAKU KABUSHIKI :  
KAISHA, :

Plaintiffs, :

v. :

Civil Action No. 07-810-JJF-LPS

AUROBINDO PHARMA LTD. AND :  
AUROBINDO PHARMA USA INC., :

Defendants. :

ASTRAZENECA PHARMACEUTICALS :  
LP, ASTRAZENECA UK LIMITED, :  
IPR PHARMACEUTICALS INC., AND :  
SHIONOGI SEIYAKU KABUSHIKI :  
KAISHA, :

Plaintiffs, :

v. :

Civil Action No. 07-811-JJF-LPS

COBALT PHARMACEUTICALS INC. :  
AND COBALT LABORATORIES INC., :

Defendants. :

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ASTRAZENECA PHARMACEUTICALS :  
LP, ASTRAZENECA UK LIMITED, :  
IPR PHARMACEUTICALS INC., AND :  
SHIONOGI SEIYAKU KABUSHIKI :  
KAISHA, :

Plaintiffs, :

v. :

Civil Action No. 08-359-JJF-LPS

AUROBINDO PHARMA LTD. AND :  
AUROBINDO PHARMA USA INC., :

Defendants. :

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ASTRAZENECA PHARMACEUTICALS :  
LP, ASTRAZENECA UK LIMITED, :  
IPR PHARMACEUTICALS INC., AND :  
SHIONOGI SEIYAKU KABUSHIKI :  
KAISHA, :

Plaintiffs, :

v. :

Civil Action No. 08-426-JJF-LPS

TEVA PHARMACEUTICALS USA, :

Defendant. :

**ERRATA ORDER**

WHEREAS, Plaintiffs have advised the Court of an error on page 6 of the Court's Memorandum Opinion dated June 29, 2010 (D.I. 555), concerning the expiration date of U.S. Patent No.

RE37,314;

NOW THEREFORE, IT IS HEREBY ORDERED that the revised page 6, attached to this Errata Order, shall be substituted for the original page 6 in the Memorandum Opinion (D.I. 555).

July 1, 2010  
DATE

Joseph J. Faucher Jr.  
UNITED STATES DISTRICT JUDGE

By this action, Plaintiffs seek an order prohibiting the FDA from approving Defendants' ANDAs prior to the expiration of the '314 patent on January 8, 2016, with attached six months of pediatric exclusivity ending on July 8, 2016, and enjoining Defendants from the commercial manufacture, use, offer to sell, sale or importation of their rosuvastatin calcium tablets prior to the expiration of Plaintiff's exclusivity. Defendants contend that claims 6 and 8 are invalid as obvious under 35 U.S.C. § 103 and as improperly reissued claims under 35 U.S.C. § 251. Defendants also contend that the '314 patent is unenforceable based upon the allegation that the original '440 patent was procured through inequitable conduct. Defendants also seek an order that Plaintiff AstraZeneca Pharmaceutical LP lacks standing to sue. The Court will address the issues raised in turn.

## **DISCUSSION**

### **I. Infringement**

#### **A. The Parties' Contentions**

Infringement is only at issue in this case with respect to Defendant Apotex Corp. ("Apotex"), and only concerns the question of whether Apotex "submitted" ANDA No. 79-145, such that it may be liable for infringement under Section 271(e)(2)(A).

Plaintiffs contend that this Court, both in this action and others, as well as numerous other courts, have recognized that an agent for a foreign ANDA applicant who signs the ANDA application and intends to benefit directly if the ANDA is approved may be