

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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H. LUNDBECK A/S, TAKEDA	)	
PHARMACEUTICAL COMPANY LTD.,	)	
TAKEDA PHARMACEUTICALS U.S.A.,	)	
INC., TAKEDA PHARMACEUTICALS	)	
INTERNATIONAL AG, and TAKEDA	)	
PHARMACEUTICALS AMERICA, INC.,	)	C.A. No. 18-088-LPS
	)	CONSOLIDATED
Plaintiffs,	)	
v.	)	
	)	
APOTEX INC., et al.,	)	
	)	
Defendants.	)	

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**MEMORDANUM ORDER**

At Wilmington, this 8<sup>th</sup> day of January, 2021, the Court, having considered Defendants Sandoz Inc. and Lek Pharmaceuticals d.d.’s Motion for Partial Judgment on the Pleadings under Fed. R. Civ. P. 12(c) and to Dismiss for Lack of Subject Matter Jurisdiction under Fed. R. Civ. P. 12(b)(1), and the papers submitted in connection therewith (*see* D.I. 908-11, 937, 944; *see also* 985 at 7);

IT IS HEREBY ORDERED that the Motion (D.I. 908) is GRANTED.

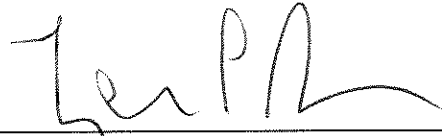
The substance of the motion is not disputed. Plaintiffs’ request that Sandoz be required to provide notice if it amends its ANDA to add a section viii statement is denied. As Sandoz states, “Plaintiffs cite no statutory or other legal authority to support this unprecedented request.” (D.I. 944 at 2; *see also generally* *Watson Labs., Inc. v. Sebelius*, 2012 U.S. Dist. LEXIS 185685, at \*9 (D.D.C. Oct. 22, 2012) (“Filing a section viii statement is not an act of infringement, so it does not require applicants to provide notice to the pioneer applicant or wait thirty months for FDA approval.”).

IT IS FURTHER ORDERED that:

1. Counts V-VI of the Third Amended Complaint for Patent Infringement Against

Sandoz Inc. and Lek Pharmaceuticals d.d. (D.I. 809) are dismissed without prejudice.

2. Sandoz Inc.'s Ninth and Tenth Counterclaims set forth in Defendants Sandoz Inc. and Lek Pharmaceuticals d.d.'s Answer and Affirmative Defenses and Sandoz's Inc.'s Counterclaims to Third Amended Complaint for Patent Infringement (D.I. 845) are dismissed without prejudice.
3. The parties shall bear their own attorneys' fees and costs.



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HONORABLE LEONARD P. STARK  
UNITED STATES DISTRICT JUDGE

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FOR THE DISTRICT OF DELAWARE

H. LUNDBECK A/S, TAKEDA	)	
PHARMACEUTICAL COMPANY LTD.,	)	
TAKEDA PHARMACEUTICALS U.S.A.,	)	
INC., TAKEDA PHARMACEUTICALS	)	
INTERNATIONAL AG and TAKEDA	)	
PHARMACEUTICALS AMERICA, INC.,	)	C.A. No. 18-88 (LPS) (JLH)
	)	CONSOLIDATED
Plaintiffs,	)	
	)	
v.	)	
	)	
ALKEM LABORATORIES LTD., et al.,	)	
	)	
Defendants.	)	

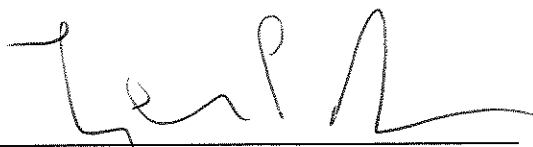
**ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION TO REDACT  
PORTIONS OF THE COURT'S SEPTEMBER 25, 2020 DISCOVERY  
DISPUTE TELECONFERENCE TRANSCRIPT**

At Wilmington this 8<sup>th</sup> day of January, 2021, having considered Plaintiffs'

Unopposed Motion to Redact Portions of the Court's September 25, 2020 Discovery Dispute  
Teleconference Transcript (D.I. 963),

IT IS HEREBY ORDERED that:

1. the Motion is GRANTED; and
2. any publicly available copies of the transcript of the September 25, 2020 discovery dispute teleconference, including but not limited to the transcripts that are or will be available by remote electronic access, shall be the redacted version of the Transcript attached as Exhibit B to the Motion.

  
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The Honorable Leonard P. Stark  
Chief, United States District Judge