

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

JANSSEN BIOTECH, INC.,

Plaintiff,

v.

SAMSUNG BIOEPIS CO., LTD.,

Defendants.

Civil Action

2:17-cv-03524-MCA-SCM

**PRETRIAL SCHEDULING ORDER**

**THIS MATTER** having come before the Court for a scheduling conference pursuant to Rule 16 of the Federal Rules of Civil Procedure on September 12, 2017; and for good cause shown:

**IT IS** on this Tuesday, September 12, 2017,

**ORDERED THAT:**

**I. DISCLOSURES**

1. See attached timeline.

**II. DISCOVERY**

2. See attached timeline.
3. Depositions of fact witnesses and individuals who will give lay opinion testimony based on particular competence in an area (including but not limited to treating physicians) are to be completed before the close of fact discovery. No objections to questions posed at depositions shall be made other than as to lack of foundation, form, or privilege. *See* Fed.R.Civ.P. 32(d)(3)(A). No instruction not to answer shall be given unless privilege is implicated.
4. Counsel shall confer in a good faith attempt to informally resolve any and all discovery disputes **before** seeking the Court's intervention. Should informal efforts fail to resolve the dispute, the matter shall be brought to the Court's attention via a **joint letter** that sets forth: (a) the specific discovery requested; (b) the response; (c) efforts to resolve the dispute; (d) why the complaining party believes the information is relevant and why the responding party's response continues to be deficient; including citations to appropriate caselaw; and (e) why the responding party believe the response is sufficient. If necessary, the Court will thereafter schedule a telephone conference to resolve the dispute.

Failure by any party to meet and confer in good faith, or to participate in the joint-letter protocol described above, absent good cause, will result in the Court deeming that party to have waived its right to take any position on the discovery issue(s) in dispute.

No discovery motion or motion for sanctions for failure to provide discovery shall be made without prior leave of Court.

Discovery disputes (other than those arising during depositions) shall be brought to the Court's attention no later than 30 days before the fact end date. **The Court will not consider any discovery dispute (other than those arising during depositions) brought to its attention after this date.** If an unresolved dispute arises at a deposition, then the parties shall contact the Chambers of the Undersigned for assistance during the deposition.

### III. DISCOVERY CONFIDENTIALITY ORDERS

5. The parties shall provide the Court with a joint proposed discovery confidentiality order. Any such form of order shall comply with Local Civil Rule 5.3 and the proposed confidentiality order must be clearly designated "**Discovery Confidentiality Order.**"

### IV. FUTURE CONFERENCES

6. There shall be a telephone status conference on 11/15/2017 at 11:30 a.m. Counsel for plaintiff shall initiate the call. The parties shall electronically file concise agenda letter(s) no later than three business days in advance of the conference. Counsel for plaintiff shall initiate the call to chambers once representatives for all parties are on the line.

7. The Court may from time to time schedule conferences as may be required, either *sua sponte* or at the request of a party.

8. Counsel should be prepared to discuss settlement at every conference with the Court. The senior attorney in charge of the case must attend all settlement conferences and client(s) with full settlement authority must either attend or be immediately available by telephone. In cases involving insurance companies and other corporate or business entities, it is expected that the executive who will make the final decision on the settlement will be the person available for the conference.

9. Since all dates set forth herein are established with the assistance and knowledge of counsel, there will be no extensions except for good cause shown and by leave of Court, even with consent of all counsel.

10. A copy of every pleading, document or written communication with the Court shall be served on all other parties to the action. Any such communication which does not recite or contain a certification of such service may be disregarded by the Court.

### V. MOTIONS

11. See attached timeline.

12. **No motions are to be filed without prior written permission from this Court, excepting motions in lieu of Answer under Fed.R.Civ.P. 12(b); motions to seal, or**

**motions to admit *pro hac vice*.** All dispositive motions must first be subject to a dispositive motion pre-hearing. Discovery must be completed prior to the filing of a dispositive motion. If a party wishes to file a summary judgment motion before the conclusion of discovery, they shall submit a letter to Judge Arleo, copy to Judge Mannion, not to exceed 5 pages, setting forth the basis for the motion. The Court will thereafter advise whether the motion can be filed. These prerequisites must be met before any motions are filed and the motions will be returned if not met. All calendar or dispositive motions, if permitted, shall comply with Local Civil Rules 7.1(b) and 56.1.

## VI. EXPERTS

13. See attached timeline.

## VII. FINAL PRETRIAL CONFERENCE

14. A final pretrial conference shall be conducted pursuant to Fed.R.Civ.P. 16(e) on TBD.

15. All counsel are directed to assemble at the office of plaintiff's counsel not later than **ten (10) days** before the final pretrial conference to prepare the Final Pretrial Order in the compliance with the form and content requirements of the Court. Plaintiff's counsel shall prepare the Final Pretrial Order and shall submit it to all other counsel for approval before submitting it to the Court.

16. The original of the Final Pretrial Order shall be delivered to Chambers in hard copy not later than **three full business days** before the final pretrial conference. All counsel are responsible for the timely submission of the Final Pretrial Order.

**17. FAILURE TO FOLLOW THIS ORDER OR ANY SUBSEQUENT SCHEDULING ORDERS MAY RESULT IN SANCTIONS PURSUANT TO Fed.R.Civ.P. 16(f) and 37.**



Honorable Steve Mannion, U.S.M.J.  
United States District Court,  
for the District of New Jersey  
phone: 973-645-3827


9/12/2017 3:32:35 PM

Original: Clerk of the Court  
Hon. Madeline Cox Arleo, U.S.D.J.  
cc: All parties  
File

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

JANSSEN BIOTECH, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 2:17-cv-03524 (MCA)(SCM)
	)	
SAMSUNG BIOEPIS, CO., LTD.	)	
	)	
Defendant.	)	
_____	)	

**JOINT DISCOVERY PLAN TIMELINE**

ACTION	Proposed Date
Parties' Rule 26(a)(1) Initial Disclosures	09/26/2017
Parties' Submission of Consent Discovery Confidentiality Order (L.Pat.R. 2.2)	09/26/2017
Plaintiffs to provide Defendants with its Disclosure of Asserted Claims	09/19/2017
Plaintiff to provide Defendant with its Infringement Contentions, and related document production (L.Pat.R. 3.1 and 3.2)	<del>10/30/2017</del> <del>01/15/2018</del> <i>11/6/17</i> 
Defendants to provide Plaintiffs with the written basis for their Invalidity Contentions along with any disclosures under L.Pat.R. 3.3 and 3.4	11/17/2017
Defendants to provide Plaintiffs with Non-Infringement Contentions and related document production (L.Pat.R. 3.2A)	11/30/2017
Plaintiffs' Responses to Defendants' Invalidity	01/15/2018


<sup>1</sup> Agreed date if Bioepis' position that the Hatch-Waxman schedule is not followed.

<sup>2</sup> Agreed date if Janssen's position that the Hatch-Waxman schedule is followed.

ACTION	Proposed Date
Contentions (L.Pat.R. 3.4A)	
Parties' Exchange of Proposed Terms for Construction (L.Pat.R. 4.1(a))	01/09/2018
Parties' Exchange of Preliminary Claim Constructions and Intrinsic and Extrinsic Evidence (L.Pat.R. 4.2(a) & (b))	01/26/2018
Parties Exchange an identification of all intrinsic and extrinsic evidence in opposition to opponent's proposed constructions (L.Pat.R. 4.2(c))	02/09/2018
Parties' Submission of Joint Claim Construction and Prehearing Statement (L.Pat.R. 4.3)	02/16/2018
Deadline for Parties to Move to Add Parties or Amend the Pleadings	09/30/2018
Parties Complete Fact Discovery Relating to Claim Construction (L.Pat.R. 4.4)	03/23/2018
Parties' Opening <i>Markman</i> Submissions (L.Pat.R. 4.5(a))	04/13/2018
Parties' Completion of Expert Discovery Related to Opening <i>Markman</i> Submissions (L.Pat.R. 4.5(b))	05/11/2018
Parties' Responding <i>Markman</i> Submissions (L.Pat.R. 4.5(c))	06/08/2018
Parties Substantially Complete Document Production	03/31/2018
Deadline to Propose Schedule for Claim Construction Hearing	06/22/2018
Close of Fact Discovery	08/30/2018
Opening Expert Reports (Plaintiffs' on Infringement; Defendants' on Invalidity)	09/28/2018
Responding Expert Reports (Plaintiffs' on Invalidity, Including Secondary Considerations; Defendants' on	10/30/2018

ACTION	Proposed Date
Non- Infringement)	
Defendant Reply Expert Report(s) on Secondary Considerations	11/30/2018
Close of Expert Discovery	01/31/2019
Last Day to File Dispositive Motions	03/01/2019
Submission of Final Pre-Trial Order	TBD
Final Pre-Trial Conference	TBD
Trial	TBD

SO ORDERED

*s/Steven C. Mannion*   
Steven C. Mannion, U.S.M.J.

Date: 9/12/17