

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SANOFI-AVENTIS U.S. LLC, SANOFI-
AVENTIS DEUTSCHLAND GMBH, and
SANOFI WINTHROP INDUSTRIE,

Plaintiffs,

v.

MERCK SHARP & DOHME CORP.,

Defendant.

C.A. No. 16-812-RGA-MPT

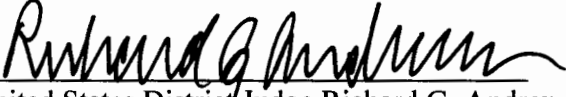
~~PROPOSED~~ **ORDER FOR JUDGMENT OF
NON-INFRINGEMENT AND DIMISSAL OF COUNTERCLAIMS**

The Court having considered the foregoing Stipulation of Judgment of Non-Infringement and Dismissal of Counterclaims;

IT IS HEREBY ORDERED that the Clerk is hereby directed to enter Judgment of Non-Infringement as to U.S. Patent No. 9,604,008 and U.S. Patent No. 9,526,844 and Dismiss Counterclaims 12 and 22.

This Judgment of Non-Infringement and Dismissal of Counterclaims is not a Final Judgment within the meaning of Fed. R. Civ. P. 54(b). This Judgment shall have the same effect for res judicata and collateral estoppel purposes as if Defendant had moved for summary judgment of non-infringement of the '008 and '844 patents, and the Court granted that motion based on the Court's construction of the following limitations: (1) "thread/threading" and (2) "the piston rod and the driving member are configured to rotate relative to one another during dose dispensing." The Dismissal of Defendant's Counterclaims 12 and 22 on the '008 and '844 patents shall be without prejudice.

This Judgment of Non-Infringement and Dismissal of Counterclaims shall preserve Plaintiffs' right to appeal this Judgment based on the Court's claim construction of the above limitations set forth in its January 12, 2018 Memorandum Opinion (D.I. 192).


United States District Judge Richard G. Andrews
5/29/18