

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

BIOGEN INC. and BIOGEN MA INC.,

*Plaintiffs,*

v.

SANDOZ INC. and POLPHARMA  
BIOLOGICS S.A.,

*Defendants.*

C.A. No. 22-1190-GBW

**STIPULATION AND [PROPOSED] ORDER OF  
DISMISSAL OF CERTAIN CLAIMS AND DEFENSES WITHOUT PREJUDICE**

This stipulation is made by and between (i) Biogen Inc. and Biogen MA Inc. (collectively, “Biogen”) and (ii) Sandoz Inc. (“Sandoz”) and Polpharma Biologics S.A. (“Polpharma”) (collectively, “Defendants”):

WHEREAS, Biogen filed suit against Sandoz and Polpharma in the above-captioned case (the “Action”);

WHEREAS, Biogen brought this Action against Sandoz and Polpharma for patent infringement of the following patents: U.S. 7,157,276; U.S. 7,759,117; U.S. 8,124,350; U.S. 8,318,416; U.S. 8,809,049; U.S. 8,871,449; U.S. 9,005,926; U.S. 9,096,879; U.S. 9,109,015; U.S. 9,212,379; U.S. 9,316,641; U.S. 9,493,567; U.S. 9,562,252; U.S. 9,696,307; U.S. 9,709,575; U.S. 9,790,533; U.S. 10,119,976; U.S. 10,233,245; U.S. 10,308,706; U.S. 10,444,234; U.S. 10,590,454; U.S. 10,677,803; U.S. 10,705,095; U.S. 10,844,416; U.S. 11,268,119; U.S. 11,280,794; U.S. 11,287,423; and U.S. 11,292,845 (*see* D.I. 2; D.I. 98);

WHEREAS, pursuant to the Court’s August 25, 2023 Scheduling Order (D.I. 280), Biogen narrowed its selection of patents and claims (D.I. 288; D.I. 421; D.I. 517);

WHEREAS, the parties dismissed certain claims and defenses by stipulation (D.I. 323; D.I. 502);

WHEREAS, the following patents remain asserted by Biogen in the case: U.S. 10,233,245 (“the ’245 patent”); U.S. 11,292,845 (“the ’845 patent”); U.S. 10,119,976 (“the ’976 patent”); U.S. 11,280,794 (“the ’794 patent”); and U.S. 9,316,641 (“the ’641 patent”);

WHEREAS, on May 28, 2025, the Court postponed the then-scheduled trial to allow Biogen to conduct supplemental expedited discovery regarding Defendants’ JCV assay and plans for marketing the same (D.I. 699 at 16; D.I. 639);

WHEREAS, Biogen has since conducted the Court-ordered supplemental expedited fact discovery, with the exception of one third-party deposition which has been noticed and is in the process of being scheduled to take place in the next few weeks;

WHEREAS, the parties submitted a joint letter to the Court on October 24, 2025 (D.I. 750) updating the Court on the status of discovery and proposing a plan forward;

WHEREAS, Counts IV, VI, and VII of Biogen’s Second Amended Complaint allege that Defendants have infringed the ’976, ’794, and ’641 patents, respectively (*see* D.I. 98);

WHEREAS, Defendants have pled defenses to Counts IV, VI, and VII (*see* D.I. 153 (as to Sandoz) and D.I. 314 (as to Polpharma));

WHEREAS, Counts 4, 6, and 7 of Sandoz’s Counterclaims seek declaratory judgment of invalidity of the ’976, ’794, and ’641 patents, respectively (*see* D.I. 153);

NOW, THEREFORE, it is hereby stipulated and agreed, by and between the parties, through their undersigned counsel and subject to the approval of the Court, as follows:

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure:

1. Counts IV, VI, and VII concerning the '976, '794, and '641 patents and defenses as applied to Counts IV, VI, and VII are dismissed without prejudice with respect to the allegations in the Second Amended Complaint;

2. Sandoz's counterclaims concerning the '976, '794, and '641 patents are dismissed without prejudice; and

3. Each party shall bear its own costs and attorney fees with respect to the '974, '794, and '641 patents and the Counts dismissed by this Stipulation and Proposed Order.

Further:

4. The parties shall meet and confer within two weeks after the outstanding third-party deposition to discuss whether Biogen will dismiss Polpharma from the case without prejudice as contemplated in the October 24, 2025 status report (D.I. 750).

MORRIS, NICHOLS, ARSHT & TUNNELL  
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Dated: October 29, 2025

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*Attorneys for Defendants Sandoz Inc. and  
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SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

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The Honorable Gregory B. Williams  
United States District Judge