

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.)

) REDACTED - PUBLIC VERSION
) (Filed October 19, 2022)
) C.A. No. 22-1190-GBW
)



**JOINT STIPULATION AND SCHEDULING ORDER FOR EXPEDITED
PRELIMINARY INJUNCTION PROCEEDINGS**

WHEREAS, Plaintiffs Biogen Inc. and Biogen MA Inc. (collectively, “Biogen”) and Defendant Sandoz Inc. (“Sandoz”) (hereinafter “the Parties”), by and through their respective outside counsel, jointly request entry of this Stipulated Scheduling Order to govern expedited discovery and briefing on Biogen’s forthcoming motion for a preliminary injunction¹;

WHEREAS, Biogen markets a biologic medication called Tysabri®, approved for treatment of multiple sclerosis and Crohn’s disease;

WHEREAS, in accordance with the provisions of the BPCIA, [REDACTED]



WHEREAS, [REDACTED]



¹ Polpharma Biologics S.A. (“Polpharma”), a Polish company, is also named as a defendant in this case but has not yet been served with the Complaint. Biogen is in the process of taking steps to effectuate service on Polpharma.

WHEREAS, [REDACTED]

[REDACTED];

WHEREAS, at present, [REDACTED]

[REDACTED];

WHEREAS, the Parties have met and conferred to discuss a schedule for expedited discovery and preliminary injunction briefing;

It is hereby STIPULATED AND AGREED, subject to the Court's approval, that:

1. [REDACTED];
2. The Parties agree not to use the fact of [REDACTED] [REDACTED] for any substantive purpose in the preliminary injunction proceedings or otherwise in the litigation; and
3. The below schedule shall govern the expedited preliminary injunction proceedings.

Date	Event
Wednesday, October 5, 2022	Both Parties serve initial document requests.
Friday, October 14, 2022	Sandoz produces certain manufacturing documents [REDACTED].
Wednesday, October 26, 2022	Both Parties serve written objections and responses to initial document requests. Further document requests related to the preliminary injunction motion will be responded to on the standard 30-day schedule.
Thursday, November 10, 2022	Both Parties produce documents and things in response to initial document requests. Parties will produce documents on a rolling basis leading up to this deadline, and will cooperate in an effort to prioritize a reasonable number of requests that address the selection among patents and other key topics.
Friday, November 18, 2022	Biogen 1) elects up to 5 patents and up to 10 claims to be asserted in preliminary injunction motion, subject to the right to seek leave of

	court to add or substitute patents or claims for good cause; and 2) serves infringement contentions for elected patent claims.
Tuesday, November 22, 2022	Both Parties serve 1) up to 5 interrogatory requests, to be counted against the total allotted for the case; and 2) deposition notices pursuant to FRCP 30(b)(6) limited to issues relevant to the preliminary injunction briefing.
Tuesday, November 29, 2022	Both Parties serve written objections and responses to FRCP 30(b)(6) deposition notices.
Friday, December 16, 2022	1) Both Parties' deadline to provide FRCP 30(b)(6) deponent(s) on topics for which they are not objecting; 2) Sandoz serves invalidity contentions on Biogen's elected patent claims; and 3) both Parties' deadline for disclosure of experts on issues for which the party bears the burden of proof (including CVs, general subject matter on which they will testify, and patents on which they will opine).
Friday, December 23, 2022	Both Parties' deadline for disclosure of rebuttal experts (including CVs, general subject matter on which they will testify, and patents on which they will opine).
Friday, January 13, 2023	Biogen files opening motion for preliminary injunction.
Friday, February 3, 2023	Deadline for Biogen to produce its experts for deposition.
Wednesday, February 15, 2023	Sandoz files opposition to motion for preliminary injunction.
Tuesday, March 7, 2023	Deadline for Sandoz to produce its experts for deposition.
Friday, March 17, 2023	Biogen files reply brief in support of motion for preliminary injunction, and will not submit an additional expert declaration on infringement. ²
Wednesday, March 29, 2023	Deadline for Biogen to produce its reply experts for deposition, if any.
Friday, April 7, 2023	Sandoz files sur-reply brief in opposition to motion for preliminary injunction.
Preliminary injunction hearing to be scheduled thereafter, at the Court's convenience.	

² If Biogen submits an expert declaration on validity in support of its reply brief, Biogen will produce the expert for deposition after filing its brief, even if he or she has been previously deposed.

SO ORDERED this ___ day of _____, 2022.

UNITED STATES DISTRICT JUDGE

Dated: October 14, 2022

MORRIS, NICHOLS, ARSHT
& TUNNELL LLP

/s/ Derek J. Fahnestock

Jack Blumenfeld (No. 1014)
Karen Jacobs (No. 2881)
Derek J. Fahnestock (No. 4705)
1201 North Market Street
Wilmington, DE 19899-1347
(302) 658-9200
jblumenfeld@morrisnichols.com
kjacobs@morrisnichols.com
dfahnestock@morrisnichols.com

Attorneys for Plaintiffs

Respectfully submitted,

YOUNG CONAWAY STARGATT
& TAYLOR, LLP

/s/ Samantha G. Wilson

Anne Shea Gaza (No. 4093)
Samantha G. Wilson (No. 5816)
Rodney Square
1000 North King Street
Wilmington, DE 19801
(302) 571-6600
agaza@ycst.com
swilson@ycst.com

Attorneys for Defendant Sandoz Inc.