IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

TAKEDA PHARMACEUTICAL COMPANY LIMITED, TAP PHARMACEUTICAL PRODUCTS INC., and ETHYPHARM, S.A.,	)	
Plaintiffs,	)	
v.	)	C.A. No. 07-331-SLR
TEVA PHARMACEUTICALS USA, INC., and TEVA PHARMACEUTICAL INDUSTRIES LTD.,	)	
Defendants.	)	

STIPULATED ORDER REGARDING
CASE SCHEDULE AND EXPERT DISCOVERY

WHEREAS, the parties in the above action have concluded that, unless the Court prefers otherwise, there is no need to conduct a *Markman* hearing in this non-jury case;

WHEREAS, the parties wish to modify the case schedule to allow an additional 30 days for fact discovery, and, in order to preserve the case schedule's current structure, to correspondingly extend the dates for service of expert reports, completion of expert discovery, and the filing of *Daubert* and *Markman* briefs – all of which can be accomplished without affecting the trial date or otherwise impacting the remainder of the existing case schedule; and

WHEREAS, the parties have reached certain agreements regarding expert discovery, which they wish to present for consideration by the Court; now therefore,

IT IS HEREBY STIPULATED AND AGREED, subject to the approval and order of the Court, as follows:

1. The January 9, 2009 *Markman* hearing is canceled.

2. The deadlines for completion of fact discovery, service of expert reports, completion of expert discovery, filing of *Markman* briefs, and filing of *Daubert* motions are

extended to the dates indicated below, but the August 20, 2007 Scheduling Order (D.I. 24) shall otherwise remain unchanged and in full force and effect:

Completion of fact discovery	September 12, 2008
Opening expert reports	October 3, 2008
Rebuttal expert reports	October 30, 2008
Completion of expert discovery	December 10, 2008
Opening *Markman* briefs	December 22, 2008
Answering *Markman* briefs	January 19, 2009

3. The parties agree to defer any Daubert challenges until post-trial briefiing. However, the parties agree that before any witness for whom a party anticipates pursing a Daubert challenge begins testimony, the party anticipating the later challenge will give notice that the challenge may be made in post-trial briefing and state the reasons for the potential challenge.

4, Notwithstanding any provisions to the contrary in the Federal Rules of Civil Procedure and any pertinent case law, discovery of experts shall be limited as follows:

A. Document discovery of experts shall be limited to the production of each testifying expert's final report(s), curricula vitae, engagement agreement(s), and invoice(s), as well as those documents and things which any testifying expert reviews or relies upon in the course of preparing and rendering his or her opinion(s). The parties expressly agree, however, that notwithstanding the provisions of this paragraph, they are not required to produce, nor will any party seek to discover, drafts of expert reports or any expert's notes. Further, the parties expressly agree they will not seek discovery into the substance of any drafts of expert reports or edits to expert reports.

B. If any document relied upon by a testifying expert is not already in the possession of the opposing party, the party tendering the expert report shall produce a clean copy of that document to the opposing party at or before the time any expert report relying upon that document is served. Any tangible item relied upon by a testifying expert shall be made available for inspection to the opposing party at a mutually agreeable time and place.

C. The deposition of testifying experts shall be scheduled at a mutually agreeable time and will be located at the New York offices of Takeda's, TAP's, or Ethypharm's counsel for experts of Takeda, TAP, and Ethypharm, respectively, and the Atlanta office of Teva's counsel for experts of Teva. At the testifying expert's deposition, the parties shall be entitled to raise all issues addressed by any testifying expert's report(s), as well as the process undertaken by a testifying expert in preparing his or her report(s), the identity of the individual(s) who prepared each section of a testifying expert's report(s), how much time was spent drafting a testifying expert's report(s), whom a testifying expert spoke with during the preparation of the report(s), and the content of any communication between a testifying expert and any witness as part of the preparation of the report(s). The parties expressly agree, notwithstanding the provisions of this paragraph, they will not seek discovery of the content of any communications between a testifying expert and counsel concerning the opinions formed by the expert or the preparation of the expert's report(s).

D. The parties expressly agree that each party will bear the costs of making its testifying expert(s) available for deposition by the opposing party.

E. Nothing herein is intended to bar discovery of documents that are otherwise discoverable from a party or third party outside the context of expert discovery, or to alter the otherwise applicable rules regarding a party's ability or inability to obtain prior testimony or statements by a testifying expert witness.

ASHBY & GEDDES

/s/ John G. Day

Steven J. Balick (#2114)
John G. Day (#2403)
Lauren E. Maguire (#4261)
500 Delaware Avenue, 8th Floor
P.O. Box. 1150
Wilmington, DE 19899
(302) 654-1888
jday@ashby-geddes.com

Attorneys for Plaintiffs

Of Counsel:

Eric J. Lobenfeld
Tedd W. Van Buskirk
Arlene L. Chow
Dillon Kim
HOGAN & HARTSON LLP
875 Third Avenue
New York, NY 10022
(212) 918-3000

Philippe Y. Riesen
HOGAN & HARTSON LLP
Shinjuku Center Building, 46th Floor
25-1 Nishi-Shinjuku 1 chome
Shinjuku, Tokyo 163-0646
Japan
(81) 3-5908-0470
Attorneys for Plaintiff Takeda Pharmaceutical Company Limited

William F. Cavanaugh, Jr.
Stuart E. Pollack
Chad J. Peterman
Patrick S. Almonrode
PATTERSON BELKNAP WEBB & TYLER LLP
1133 Avenue of the Americas
New York, NY 10036
(212) 366-2000
Attorneys for Plaintiff TAP Pharmaceutical Products, Inc.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Karen L. Pascale

John W. Shaw (#3362)
Karen L. Pascale (#2903)
Karen E. Keller (#4489)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, DE 19801
(302) 571-6600
kpascale@ycst.com

Attorneys for Defendants

Of Counsel:

John L. North
Jeffrey J. Toney
Ann G. Fort
SUTHERLAND, ASBILL & BRENNAN LLP
999 Peachtree Street
Atlanta, GA 30309-3996
(404) 853-8000

Paul A. Ragusa
Lisa Kole
Sandra Lee
BAKER BOTTS LLP
30 Rockefeller Plaza
New York, NY 10112
(212) 408-2588
Attorneys for Plaintiff Ethypharm, S.A.

SO ORDERED this _____ day of _____, 2008.

_____
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I, Karen L. Pascale, Esquire, hereby certify that on July 7, 2008, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Steven J. Balick [sbalick@ashby-geddes.com]
John G. Day [jday@ashby-geddes.com]
Lauren Maguire [lmaguire@ashby-geddes.com]
ASHBY & GEDDES
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, DE 19899
(302) 654-1888

I further certify that on July 7, 2008**,** I caused a copy of the foregoing document to be served by e-mail on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

By E-Mail

Eric J. Lobenfeld [ejlobenfeld@hhlaw.com]
Tedd W. Van Buskirk [twvanbuskirk@hhlaw.com]
Arlene L. Chow [alchow@hhlaw.com]
Dillon Kim [dkim@hhlaw.com]
HOGAN & HARTSON LLP
875 Third Avenue
New York, NY 10022
(212) 918-3000

Philippe Y. Riesen [pyriesen@hhlaw.com]
HOGAN & HARTSON LLP
Shinjuku Center Building, 46th Floor
25-1 Nishi-Shinjuku 1-chome
Shinjuku, Tokyo 163-0646
Japan
(81) 3-5908-0470

Richard de Bodo [rdebodo@hhlaw.com]
HOGAN & HARTSON LLP
1999 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
(310) 785-4600
Attorneys for Plaintiffs Takeda Pharmaceutical Company Ltd. and Ethypharm S.A.

William F. Cavanaugh, Jr. [wfcavanaugh@pbwt.com]
Stuart E. Pollack [sepollack@pbwt.com]
Chad J. Peterman [cjpeterman@pbwt.com]
PATTERSON BELKNAP WEBB & TYLER LLP
1133 Avenue of the Americas
New York, NY 10036
(212) 336-2000
Attorneys for Plaintiff TAP Pharmaceutical Products Inc.

Paul A. Ragusa [paul.ragusa@bakerbotts.com]
BAKER BOTTS LLP
30 Rockefeller Plaza
New York, N.Y. 10112-4498
(212) 408-2588
Attorneys for Plaintiff Ethypharm, S.A.

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Karen L. Pascale

Karen L. Pascale (No. 2903) [kpascale@ycst.com]
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, Delaware 19801
(302) 571-6600
Attorneys for Defendants, Teva Pharmaceuticals USA, Inc. and Teva Pharmaceutical Industries, Ltd.