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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ASTRAZENECA PHARMACEUTICALS LP, ASTRAZENECA UK LIMITED, IPR PHARMACEUTICALS, INC., and SHIONOGI SEIYAKU KABUSHIKI KAISHA,	Civil Action No. 3:07-cv-06020-MLC-JJH
Plaintiffs,	**MOTION DATE: April 7, 2008**
vs.	**NOTICE OF MOTION**
AUROBINDO PHARMA LIMITED, and AUROBINDO PHARMA USA INC.	
Defendants.	

TO: ALL COUNSEL

PLEASE TAKE NOTICE that Plaintiffs AstraZeneca Pharmaceuticals LP, AstraZeneca UK Limited, IPR Pharmaceuticals, Inc., and Shionogi Seiyaku Kabushiki Kaisha ("Plaintiffs")

will move this Court at the Clarkson S. Fisher Building and Federal Courthouse, 402 E. State Street, Trenton, New Jersey, on April 7, 2008 at 9 a.m., before Magistrate Judge John J. Hughes, for entry of an Order, pursuant to Local Civil Rule 5.3(c), permitting the sealing of the Exhibits 1-4 to the Declaration of Jonathan M. H. Short and Plaintiffs' Opposition Brief all submitted in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss filed on March 7, 2008.

PLEASE TAKE FURTHER NOTICE that Plaintiffs will rely upon the Memorandum submitted with this Notice of Motion, the Declaration of Mark H. Anania, and upon all pleadings and proceedings on file herein.

PLEASE TAKE FURTHER NOTICE that a Proposed Order granting Plaintiffs' motion is attached.

Respectfully submitted,

Dated: March 7, 2008

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of Plaintiffs' Notice of Motion to Seal with supporting papers were caused to be served on March 7, 2008, upon the following:

Via Overnight, ECF, and Electronic Mail:
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Jane Jhun
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ASTRAZENECA PHARMACEUTICALS LP, ASTRAZENECA UK LIMITED, IPR PHARMACEUTICALS, INC., and SHIONOGI SEIYAKU KABUSHIKI KAISHA, **Plaintiffs,** **vs.** **AUROBINDO PHARMA LIMITED, and AUROBINDO PHARMA USA INC.** **Defendants.**	Civil Action No. 3:07-cv-06020-MLC-JJH **MOTION DATE:** **April 7, 2008**

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO SEAL

TABLE OF CONTENTS

INTRODUCTION 1

LEGAL ARGUMENT 1

I. LEGAL STANDARDS APPLICABLE TO THIS MOTION 1

II. REQUEST TO SEAL 2

CONCLUSION 4

INTRODUCTION

Plaintiffs AstraZeneca Pharmaceuticals LP, AstraZeneca UK Limited, IPR Pharmaceuticals, Inc., and Shionogi Seiyaku Kabushiki Kaisha ("Plaintiffs") respectfully submit this Memorandum in support of their Motion pursuant to Local Rule 5.3(c) to seal Exhibits 1-4 to the Declaration of Jonathan M. H. Short and Plaintiffs' Opposition Brief all submitted in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss filed on March 7, 2008 (the "Confidential Materials").

LEGAL ARGUMENT

I. LEGAL STANDARDS APPLICABLE TO THIS MOTION

Local Civil Rule 5.3(c) places the burden of proof on the moving party as to why a motion to seal or otherwise restrict public access should be granted. Specifically, it requires a showing of:

(a) the nature of the materials or proceedings at issue;

(b) the legitimate private or public interest which warrants the relief sought;

(c) the clearly defined and serious injury that would result if the relief sought is not granted; and

(d) why a less restrictive alternative to the relief sought is not available.

The documents that are the subject of this Motion include documents produced in discovery and designated by Defendants Aurobindo Pharma Limited and Aurobindo Pharma USA Inc. (together "Defendants") as "Highly Confidential/Attorneys' Eyes Only" as well as other confidential information.

Specifically, the Confidential Materials include: (a) Exhibit 1 to the Declaration of Jonathan M. H. Short, which is a true and correct copy of Defendants' Form 356h portion of its Abbreviated New Drug Application for rosuvastatin calcium tablets that was designated by

Defendants as "Highly Confidential/Attorneys' Eyes Only;" (b) Exhibit 2 to the Declaration of Jonathan M. H. Short, which is a true and correct copy of Defendants' Form Cover Letter portion of its Abbreviated New Drug Application for rosuvastatin calcium tablets that was designated by Defendants as "Highly Confidential/Attorneys' Eyes Only; (c) Exhibit 3 to the Declaration of Jonathan M. H. Short, which is a true and correct copy of Defendants' U.S. Agent Authorization Letter portion of its Abbreviated New Drug Application for rosuvastatin calcium tablets that was designated by Defendants as "Highly Confidential/Attorneys' Eyes Only;" (d) Exhibit 4 to the Declaration of Jonathan M. H. Short, which is a copy of Defendants' Paragraph IV Certification Letter that Defendants have identified as "Confidential;" and (e) Plaintiffs' Brief in Opposition to Defendants' Motion to Dismiss, which quotes from and refers to the above exhibits as well as to materials already under seal pursuant to the March 5, 2008 Order to Seal entered in this case (Docket No. 23).

Plaintiffs do not concede that the Confidential Materials warrant such a designation (and in fact invite Defendants to submit further evidence to that effect), but make such request to seal these Confidential Materials in order to comply with the Agreement between the parties regarding use of confidential documents.

II. REQUEST TO SEAL

This is a patent case requiring discovery of highly sensitive competitive materials, including trade secret information. To protect the confidentiality of such information, on February 28, 2008 the parties agreed to maintain the confidentiality of any jurisdictional discovery produced (referred to herein as the "Agreement"). *See* Declaration of Mark H. Anania, at ¶ 3 ("Anania Decl.") . The Confidential Materials are subject to the Agreement as they are documents produced by Defendants in jurisdictional discovery and were designated by

Defendants as "Highly Confidential/Attorneys' Eyes Only" or otherwise identified as "Confidential." By making such a designation, Defendants have manifested their belief that the public disclosure of these documents could adversely affect Defendants' legitimate business interests.

Plaintiffs have a legitimate interest that warrants an order sealing the Confidential Materials. Defendants have identified the Confidential Materials to be "Highly Confidential/Attorneys' Eyes Only" or "Confidential," respectively. Under the Agreement, Plaintiffs are to file a Motion to Seal pursuant to Local Civil Rule 5.3(c) if Plaintiffs file any such materials with the Court. *See* Anania Decl. at ¶ 3. Therefore, Plaintiffs must file the Confidential Materials under seal to comply with the Agreement.

A clearly defined and serious injury will result to Plaintiffs if they are not permitted to file the Confidential Materials under seal. If Plaintiffs cannot file the Confidential Materials under seal, Plaintiffs cannot include the Confidential Materials in their Opposition to Defendants' Motion to Dismiss without violating the Agreement. As such, without permission to file the Confidential Materials under seal, Plaintiffs must either violate the Agreement or become critically limited in their ability to adequately advocate for their position.

Finally, Plaintiffs believe that there is no less restrictive alternative to the relief sought. As discussed above, the Confidential Materials have been identified by Defendants as either "Highly Confidential/Attorneys' Eyes Only" or "Confidential" pursuant to the Agreement. Plaintiffs therefore have no choice but to file this Motion to Seal the Confidential Materials. Furthermore, Plaintiffs' Motion to Seal is narrowly tailored because it is limited only to the Confidential Materials identified herein.

CONCLUSION

Plaintiffs have met their burden under Local Civil Rule 5.3. For the foregoing reasons, and in order to protect the confidential information designated by Defendants to be confidential, Plaintiffs respectfully request that the Court grant their Motion to seal the Confidential Materials.

Respectfully submitted,

Dated: March 7, 2008

s/ Andrew T. Berry

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ASTRAZENECA PHARMACEUTICALS LP, ASTRAZENECA UK LIMITED, IPR PHARMACEUTICALS, INC., and SHIONOGI SEIYAKU KABUSHIKI KAISHA, **Plaintiffs,** **vs.** **AUROBINDO PHARMA LIMITED, and AUROBINDO PHARMA USA INC.** **Defendants.**	Civil Action No. 3:07-cv-06020-MLC-JJH **DECLARATION OF MARK H. ANANIA IN SUPPORT OF PLAINTIFFS' MOTION TO SEAL**

Mark H. Anania, of full age, hereby certifies as follows:

1. I am an attorney at law of the State of New Jersey, a member of good standing of the bar of this Court, and am associated with the firm of McCarter & English, LLP, co-counsel for Plaintiffs.

2. I make this Declaration on my personal knowledge in support of Plaintiffs AstraZeneca Pharmaceuticals LP, AstraZeneca UK Limited, IPR Pharmaceuticals, Inc., and Shionogi Seiyaku Kabushiki Kaisha's ("Plaintiffs") motion filed pursuant to Local Civil Rule 5.3 to seal Exhibits 1-4 to the Declaration of Jonathan M. H. Short and Plaintiffs' Opposition Brief all submitted in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss filed on March 7, 2008.

3. On February 28, 2008, the parties agreed to maintain the confidentiality of any jurisdictional discovery produced by an opposing party (the "Agreement"). Under this Agreement, any documents produced or received bearing the designation "Highly Confidential/Attorneys' Eyes Only" are to be filed under seal if used by the receiving party in a subsequent filing with the Court.

4. The documents that are the subject of this motion include and/or refer to material identified by Defendants to be "Highly Confidential/Attorney Eyes Only" or otherwise "Confidential" as well as documents already under seal pursuant the March 5, 2008 Order to Seal entered in this case (Docket No. 23).

4. By designating these documents as such, Defendants have manifested their belief that these documents contain confidential and proprietary information.

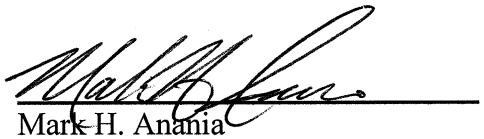
5. Plaintiffs have a legitimate interest that warrants an order permitting Plaintiffs to file the subject materials under seal because the Agreement requires any material designated as "Highly Confidential/Attorneys' Eyes Only" to be filed under seal if submitted to the Court.

6. A clearly defined and serious injury to Plaintiffs will result if the Court does not allow Plaintiffs to file this information under seal because absent such an order, Plaintiffs will be unable to submit these documents in support of their Opposition to Defendants' Motion to Dismiss.

7. No less restrictive alternative is available to Plaintiffs because the Agreement gives Plaintiffs no choice but to file the documents under seal.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: March 7, 2008



Mark H. Ananía

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ASTRAZENECA PHARMACEUTICALS LP, ASTRAZENECA UK LIMITED, IPR PHARMACEUTICALS, INC., and SHIONOGI SEIYAKU KABUSHIKI KAISHA, **Plaintiffs,** **vs.** **AUROBINDO PHARMA LIMITED, and AUROBINDO PHARMA USA INC.** **Defendants.**	Civil Action No. 3:07-cv-06020-MLC-JJH **[PROPOSED] ORDER**

Upon Plaintiffs AstraZeneca Pharmaceuticals LP, AstraZeneca UK Limited, IPR Pharmaceuticals, Inc., and Shionogi Seiyaku Kabushiki Kaisha's ("Plaintiffs'") application for the entry of an Order, pursuant to Local Civil Rule 5.3(c), providing for the sealing of the Exhibits 1-4 to the Declaration of Jonathan M. H. Short and Plaintiffs' Opposition Brief, all submitted in support of Plaintiffs' Opposition to Defendants' Motion to Dismiss filed on March 7, 2008, and the Court having considered the papers submitted in support of this Motion, the Court hereby finds:

1. Through discovery in this case, the parties have produced confidential information, the public disclosure of which could affect legitimate business interests. To protect the confidentiality of this information, the parties agreed to maintain the confidentiality of any produced materials pursuant an agreement between the parties (the "Agreement").

2. The Agreement provides that a party wishing to use material designated "Highly Confidential/Attorneys' Eyes Only" in a submission filed with the Court must move pursuant to Local Rule 5.3 for leave to file the submission under seal.

3. Plaintiffs have filed Plaintiffs' Brief in Opposition to Defendants' Motion to Dismiss and accompanying exhibits on March 7, 2008. These documents are referred to herein as the "Confidential Materials."

4. The Confidential Materials contains information that has been designated as "Highly Confidential/Attorneys Eyes Only" or otherwise "Confidential" by Defendants as well as information that is already subject to the Order to Seal entered by the Court on March 5, 2008 (Docket No. 23).

5. Plaintiffs have complied with the terms of the Agreement by moving to seal the Confidential Materials pursuant to L.Civ.R. 5.3(c).

6. The information in the Confidential Materials satisfies the standards set forth in L.Civ.R. 5.3. The public release of this material, which includes confidential and proprietary business information would greatly harm the Defendants' competitive and business interests. There is no less restrictive alternative to the sealing of this material.

THEREFORE, it is this _____ day of _____, 2008

ORDERED that Motion to Seal Pursuant to Local Rule 5.3 is hereby granted; and

IT IS FURTHER ORDERED that the Clerk is hereby directed to seal the Confidential Materials.

_____
Honorable John J. Hughes
United States Magistrate Judge