

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BAUSCH HEALTH IRELAND LIMITED;
BAUSCH HEALTH US, LLC; and
BAUSCH HEALTH AMERICAS, INC.,

Plaintiffs,

v.

PADAGIS ISRAEL PHARMACEUTICALS
LIMITED; PADAGIS US LLC; and
PADAGIS LLC,

Defendants.

Civil Action No. 22-4248 (SRC) (CLW)
(CONSOLIDATED)

Document Electronically Filed

**STIPULATION AND ORDER ON
PRETRIAL SCHEDULE AND DISCOVERY**

This stipulation is made by and between Plaintiffs Bausch Health Ireland Limited, Bausch Health US, LLC, and Bausch Health Americas, Inc. (collectively, “Bausch Health” or “Plaintiffs”) and Defendants Padagis Israel Pharmaceuticals Limited, Padagis US LLC, and Padagis LLC (collectively “Padagis” or “Defendants”).

WHEREAS, Bausch Health filed an action for infringement of U.S. Patent No. 11,311,482 (the “’482 patent”) against Padagis on June 24, 2022 (Civil Action No. 22-4248, the “’482 Patent Action”);

WHEREAS, Bausch Health filed an action for infringement of U.S. Patent No. 11,679,116 (the “’116 patent”) against Padagis on June 21, 2023 (Civil Action No. 23-3393, the “’116 Patent Action”);

WHEREAS, Padagis filed a petition for *inter partes* review of the ’482 patent with the Patent Trial & Appeal Board (“PTAB”) on June 21, 2023 (IPR2023-01114, the “’482 IPR”);

WHEREAS, on September 15, 2023, the Court entered an Order (ECF No. 99) consolidating the '482 Patent Action and the '116 Patent Action for all purposes, with the '482 Patent Action serving as the lead case (hereinafter the "Consolidated Action");

NOW THEREFORE, Bausch Health and Padagis, by and through their respective undersigned counsel, stipulate and agree as follows, subject to the approval of the Court:

1. All deadlines set forth in the '482 Patent Action and '116 Patent Action are hereby vacated, and the initial conference scheduled in the "'116 Patent Action for October 26, 2023, is adjourned. The following deadlines shall apply to the Consolidated Action:

Event	Date
Padagis's '116 Patent Invalidity Contentions and attendant document production (L. Pat. R. 3.6(c)-(d))	October 9, 2023
Padagis's '116 Patent Non-Infringement Contentions and attendant document production (L. Pat. R. 3.6(e)-(f))	October 9, 2023
Bausch Health's '116 Patent Disclosure of Asserted Claims and Infringement Contentions and attendant document production (L. Pat. R. 3.6(g)-(h))	November 6, 2023
Bausch Health's '116 Patent Responses to Invalidity Contentions (L. Pat. R. 3.6(i))	November 6, 2023
Deadline for substantial completion of document production	November 6, 2023
Deadline to seek leave to amend pleadings or to join new parties	November 9, 2023
Deadline to serve new and/or amended deposition notices	November 13, 2023
Deadline to provide designations in response to Rule 30(b)(6) notices and to provide tentative witness availability for witnesses under a party's control	December 1, 2023
Fact discovery deadline	January 9, 2024
Exchange of opening expert reports	February 23, 2024
Exchange of rebuttal expert reports	April 5, 2024

Event	Date
Exchange of reply expert reports	May 3, 2024
Expert discovery deadline (including depositions)	May 31, 2024

2. For the purposes of the Consolidated Action, no terms from the '116 patent require claim construction, and thus, no further claim construction submissions or proceedings are necessary.
3. Bausch Health shall produce, if not already in the possession of Padagis, all documents produced by Bausch Health under Federal Rule of Civil Procedure 34 in *Bausch Health Ireland Ltd. v. Padagis Israel Pharmaceuticals Ltd.*, Civil Action No. 20-5426 (SRC) (CLW) (the "Prior Action"). All such documents, whether produced or in the possession of Padagis, shall be treated as if produced in the Consolidated Action. Padagis shall produce, on an ongoing basis, all regulatory submissions and correspondence to and from the FDA pertaining to Padagis's Abbreviated New Drug Application No. 215393, consistent with Local Patent Rule 3.6(j).
4. For documents produced by Bausch Health pursuant to Paragraph 3 of this Stipulation and Order also covered by the Stipulation and Order Regarding Production of Documents entered into by the parties in the Prior Action (Civil Action No. 20-5426, ECF No. 160), such stipulation shall continue to apply in the Consolidated Action to the same extent as in the Prior Action.
5. Each party shall be limited to issuing up to five new interrogatories, including subparts. Each party may serve new requests for production in the Consolidated Action.
6. All discovery propounded and obtained in the '482 Patent Action may be used in the Consolidated Action.

7. Nothing herein modifies the parties' discovery obligations imposed by Federal Rule of Civil Procedure 26(e).
8. The Discovery Confidentiality Order entered in the '482 Patent Action (Civil Action No. 22-4248, ECF No. 45) shall continue in the Consolidated Action, except that references to "this action" in Paragraphs 4, 4(a), 5(a), 5(b), 13, 14, and 15 shall be deemed to include the Consolidated Action.
9. Padagis shall not move to stay the Consolidated Action prior to the PTAB's final decision regarding institution in the '482 IPR (including, if institution is denied, any request for rehearing to the PTAB), unless such a stay is jointly supported by Padagis and Bausch Health. If the PTAB institutes an *inter partes* review, Padagis and Bausch Health reserve all rights to seek a stay of the Consolidated Action pending resolution of the IPR, in whole or in part, and to oppose any stay of the Consolidated Action, in whole or in part.
10. The Stipulation and Order Regarding Notice of Marketing or Offer for Sale in the '482 Patent Action (Civil Action No. 22-4248, ECF No. 36) remains in effect and shall apply to the Consolidated Action.

STIPULATED AND AGREED TO BY:

s/ William P. Deni, Jr.
William P. Deni, Jr.
J. Brugh Lower
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
(973) 596-4500
wdeni@gibbonslaw.com
jlower@gibbonslaw.com

s/ Karen A. Confoy
Karen A. Confoy
Cali R. Spota
FOX ROTHSCHILD LLP
Princeton Pike Corporate Center
997 Lenox Drive
Lawrenceville, New Jersey 08648
(609) 896-3600
kconfoy@foxrothschild.com
cspota@foxrothschild.com

OF COUNSEL:

Thomas P. Steindler (*pro hac vice*)
April E. Weisbruch (*pro hac vice*)
Christopher M. Bruno (*pro hac vice*)
Timothy M. Dunker (*pro hac vice*)
Joshua Revilla (*pro hac vice*)
Lillian J. Spetrino (*pro hac vice*)
Jake B. Vallen (*pro hac vice*)
MCDERMOTT WILL & EMERY LLP
500 North Capitol Street N.W.
Washington, D.C. 20001
(202) 756-8000

Attorneys for Plaintiffs
Bausch Health Ireland Limited,
Bausch Health US, LLC, and
Bausch Health Americas, Inc.

OF COUNSEL:

Bill Zimmerman (*pro hac vice*)
Andrea Cheek (*pro hac vice*)
KNOBBE, MARTENS, OLSON
& BEAR, LLP
1717 Pennsylvania Ave. N.W. Ste. 900
Washington D.C. 20006
(202) 640-6400

Carol Pitzel Cruz (*pro hac vice*)
KNOBBE, MARTENS, OLSON
& BEAR, LLP
925 Fourth Avenue, Suite 2500
Seattle, WA 98104
(206) 405-2000

Brian C. Barnes (*pro hac vice*)
KNOBBE, MARTENS, OLSON
& BEAR, LLP
2040 Main St., 14th Floor
Irvine, CA 92614
(949) 760-0404

Attorneys for Defendants
Padagis Israel Pharmaceuticals
Limited, Padagis US LLC, and
Padagis LLC

SO ORDERED this 22nd day of September, 2023:

s/ Cathy L. Waldor
Hon. Cathy L. Waldor, U.S.M.J.