

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ZOGENIX, INC. and)	
ZOGENIX INTERNATIONAL LTD.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 21-1252 (RGA)
)	CONSOLIDATED
APOTEX INC. and APOTEX CORP.,)	
)	
Defendants.)	
<hr/>		
ZOGENIX, INC. and)	
ZOGENIX INTERNATIONAL LTD.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 22-1232 (RGA)
)	
APOTEX INC., APOTEX CORP. and)	
LUPIN LTD.,)	
)	
Defendants.)	
<hr/>		
ZOGENIX, INC.,)	
ZOGENIX INTERNATIONAL LTD.,)	
KATHOLIEKE UNIVERSITEIT LEUVEN and)	
UNIVERSITY HOSPITAL ANTWERP,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 21-1424 (RGA)
)	
LUPIN LTD.,)	
)	
Defendant.)	

STIPULATION TO CONSOLIDATE AND STAY CASE

WHEREAS, Plaintiffs Zogenix, Inc., Zogenix International Ltd. (together, “Zogenix”), Katholieke Universiteit Leuven (“KUL”), and University Hospital Antwerp (“UZA”) have asserted U.S. Patent Nos. 9,549,909 (“the ’909 patent”), 9,603,814 (“the ’814 patent”); 9,603,815 (“the ’3815 patent”); 9,610,260 (“the ’260 patent”); 10,478,441 (“the ’441 patent”); 10,478,442

(“the ’442 patent”); and 10,947,183 (“the ’183 patent”) against Defendant Lupin Ltd. (“Lupin”) in Case No. 21-1424 (D.I. 1);

WHEREAS, Zogenix has asserted the ’183 patent against Defendants Apotex Inc. and Apotex Corp. (together, “Apotex”) in Case No. 21-1533 (D.I. 1), which was subsequently consolidated (D.I. 12) with Case No. 21-1252 (D.I. 18);

WHEREAS, Zogenix moved for leave to amend its complaint against Apotex in Case No. 21-1252 (D.I. 95) to assert the ’441 patent, the ’442 patent, and U.S. Patent No. 10,351,510 (“the ’510 patent”), and to join KUL and UZA as Plaintiffs;

WHEREAS, Zogenix has asserted U.S. Patent No. 11,406,606 (“the ’606 patent”) against both Lupin and Apotex (together, “Defendants”) in Case No. 22-1232 (D.I. 1);

WHEREAS, Apotex moved to dismiss Zogenix’s complaint alleging infringement of the ’606 patent in Case No. 22-1232 (D.I. 14);

WHEREAS, the above-mentioned motions filed by Zogenix and Apotex are pending and fully briefed;

WHEREAS, the Court’s decisions on the above-mentioned motions are likely to have a substantial impact on the scope of discovery, as well as on the need for coordination and consolidation across the above-captioned cases, given that they will determine whether Zogenix’s claims against Apotex based on the ’606, ’441, ’442, and ’510 patents will proceed;

WHEREAS, fact discovery is scheduled to close on April 14, 2023 in Case Nos. 21-1252 (D.I. 43) and 21-1424 (D.I. 48);

WHEREAS, on this 22nd day of February, 2023, the parties having agreed to coordinate the schedule in each of the above-captioned actions for pre-trial purposes;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs and Defendants through their undersigned counsel, and subject to the approval of the Court that:

1. Case Nos. 21-1252, 22-1232, and 21-1424 will be consolidated for discovery and trial under case No. 21-1252 (“Consolidated Case No. 21-1252”).
2. Consolidated Case No. 21-1252 will be stayed until the date the Court has ruled on both Zogenix’s and Apotex’s above-mentioned motions (the “Trigger Date”), at which point the stay will be lifted.
3. Within two weeks of the Trigger Date, Plaintiffs and Defendants will jointly submit a new proposed schedule through trial.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Megan E. Dellinger

Jack B. Blumenfeld (#1014)
Megan E. Dellinger (#5739)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
mdellinger@morrisnichols.com

*Attorneys for Plaintiffs Zogenix, Inc.,
Zogenix International Ltd., Katholieke
Universiteit Leuven, and University Hospital
Antwerp*

MORRIS JAMES LLP

/s/ Kenneth L. Dorsney

Kenneth L. Dorsney (#3726)
Cortlan S. Hitch (#6720)
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801
(302) 888-6800
kdorsney@morrisjames.com
chitch@morrisjames.com

*Attorneys for Defendants Apotex Inc.
and Apotex Corp.*

PHILLIPS, McLAUGHLIN & HALL, P.A.

/s/ John C. Phillips, Jr.

John C. Phillips, Jr. (#110)
David A. Bilson (#4986)
1200 North Broom Street
Wilmington, DE 19806
(302) 655-4200
jcp@pmhdelaw.com
dab@pmhdelaw.com

Attorneys for Defendant Lupin Ltd.

February 22, 2023

SO ORDERED this ____ day of _____, 2023.

UNITED STATES DISTRICT JUDGE