

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

STATE OF FLORIDA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 08-155 (SLR)
)	
ABBOTT LABORATORIES, FOURNIER)	
INDUSTRIE ET SANTÉ, and)	
LABORATOIRES FOURNIER, S.A.,)	
)	
Defendants.)	

STIPULATED INJUNCTION AND [PROPOSED] ORDER

All plaintiffs and all defendants in this action stipulate as follows:

WHEREAS, the States of Florida, Arizona, Arkansas, California, Connecticut, Idaho, Iowa, Kansas, Maine, Maryland, Michigan, Minnesota, Missouri, Nevada, New York, North Carolina, Oregon, South Carolina, Texas, Washington and West Virginia, and the Commonwealths of Massachusetts and Pennsylvania, and the District of Columbia, all by their respective Attorneys General (or Acting or Interim Attorneys General) (collectively, “States”), brought an action against defendants Abbott Laboratories (“Abbott”), Fournier Industrie et Sante and Laboratoires Fournier S.A. (“Fournier”) (collectively “Defendants”) pursuant to Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2, Section 16 of the Clayton Act, 15 U.S.C. § 26, and 28 U.S.C. §§ 1331, 1337, and state antitrust, consumer protection and/or unfair competition statutes and related common law, seeking damages, civil penalties, injunctive and other equitable relief (the “Lawsuit”);

WHEREAS, the Lawsuit, C.A. No. 08-155 (SLR), is pending in the United States District Court for the District of Delaware before the Hon. Sue L. Robinson;

WHEREAS, the States and Defendants desire to settle their disputes and the Lawsuit as between them to avoid further expense and inconvenience of litigation, without any admission of liability or wrongdoing on the part of Defendants or any admission on the part of the States of any lack of merit in the claims asserted;

WHEREAS, the States and Defendants have entered into a settlement agreement (“Settlement Agreement”) that requires, inter alia, the payment of \$22.5 million by Defendants to Plaintiffs and the entry of the following Stipulated Injunction;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby ORDERED:

1. Except as required by law, act or order by a court or administrative agency, Defendants shall not request, support or authorize the deletion, removal or cancellation of the TriCor NDA or any National Drug Codes or any other relevant codes for TriCor 145 mg and/or TriCor 48 mg from the National Drug Data File maintained by First Databank, or from any other pricing database, until the earliest of:

(a) 45 days after the effective date (under 21 U.S.C. § 355(j)(5)(B)(ii)) of the approval by the FDA of a “TriCor ANDA”, or

(b) 45 days after the time period referenced in 21 U.S.C. §355(j)(5)(B)(iii) is no longer the basis for the deferral of the effective date (under 21 U.S.C. § 355(j)(5)(B)(ii)) of approval of a “TriCor ANDA” ; or

(c) the date on which a district court enters a judgment reflecting a determination of infringement and validity or, if infringement is uncontested, a determination of validity in any patent litigation based upon a “TriCor ANDA”; or

(d) the date on which there has been a disapproval, termination, withdrawal and/or abandonment (for any reason) of every “TriCor ANDA.”

For purposes of (a)-(d) above, “TriCor ANDA” means an ANDA for TriCor 145 mg and/or TriCor 48 mg for which Abbott has received as of the date of this agreement timely Paragraph IV notification with respect to TriCor 145 mg and/or TriCor 48 mg.

2. The parties’ stipulation has been made without the taking of proof or trial. Neither the parties’ stipulation nor the Court’s order embodying that stipulation constitutes evidence or an admission regarding any allegation in this action or otherwise. Neither the parties’ stipulation nor the Court’s order embodying that stipulation constitutes an adjudication of the substantive merits of any allegation, claim or defense in this action. Defendants denied and continue to deny all liability with respect to any and all of the allegations and claims in this action, deny that they have engaged in any wrongdoing, deny that they have acted improperly in any way, and deny that any of the conduct prohibited herein would violate any statute, law, regulation or other legal requirement or obligation.

3. The Court retains jurisdiction of this matter for purposes of construction, modification and enforcement of this Stipulated Injunction and Order and of the Settlement Agreement attached hereto.

4. All claims in this action are hereby dismissed with prejudice, each party to bear its own costs and attorney's fees except as otherwise provided in the Settlement Agreement.

SO STIPULATED.

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January 7, 2010
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SO ORDERED this day of , 2010.

UNITED STATES DISTRICT JUDGE