

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

JAZZ PHARMACEUTICALS, INC.,

Plaintiff,

v.

AVADEL CNS PHARMACEUTICALS, LLC,

Defendant.

C.A. No. 21-691-MN

**DEFENDANT’S RENEWED MOTION FOR  
PARTIAL JUDGMENT ON THE PLEADINGS**

Defendant Avadel CNS Pharmaceuticals, LLC (“Defendant”), by and through its undersigned counsel, respectfully moves for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c) on Defendant’s counterclaim seeking delisting of U.S. Patent No. 8,731,963 (the “’963 patent”) from the Orange Book (*see* D.I. 11, Count III), and for an order requiring Jazz to submit a request to the FDA to delist the ’963 patent pursuant to 21 U.S.C. § 355(c)(3)(D)(ii)(I). The grounds for this motion are set forth in the accompanying opening brief filed contemporaneously herewith.

Dated: June 23, 2022

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**[PROPOSED] ORDER GRANTING DEFENDANT’S RENEWED MOTION FOR  
PARTIAL JUDGMENT ON THE PLEADINGS**

The Court having considered Defendant’s Renewed Motion for Partial Judgment on the Pleadings (the “Motion”), the relevant papers and submissions, and any opposition and reply thereto,

IT IS HEREBY ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2022, that Defendant’s Motion is GRANTED.

The Court further ORDERS that pursuant to Fed. R. Civ. P. 12(c), judgment is entered in favor of Defendant, and against Plaintiff, on Defendant’s Counterclaim, Count III.

The Court further ORDERS that Plaintiff is directed by mandatory injunction under 21 U.S.C. § 355(c)(3)(D)(ii)(I) to correct within fourteen (14) days from the date of this Order its improper listing of the ’963 patent by submitting to the FDA a request, enclosing this Order, to delete U.S. Patent No. 8,731,963 from the Orange Book entry for Xyrem®.

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UNITED STATES DISTRICT JUDGE