

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAZZ PHARMACEUTICALS, INC.,)
)
Plaintiff,)
)
v.) C.A. No. 21-691 (GBW)
)
AVADEL CNS PHARMACEUTICALS LLC,)
)
Defendant.)

**STIPULATION AND [PROPOSED] ORDER DISMISSING
JAZZ’S ’963 PATENT INFRINGEMENT CLAIM AGAINST AVADEL AND
AVADEL’S NONINFRINGEMENT & INVALIDITY COUNTERCLAIMS
AGAINST THE ’963 PATENT**

Pursuant to Federal Rule of Civil Procedure 41, Jazz Pharmaceuticals, Inc. (“Jazz”) and Avadel CNS Pharmaceuticals, LLC (“Avadel”) hereby stipulate as follows:

WHEREAS Jazz has sued Avadel in this action (“Action”) for infringement of, *inter alia*, Jazz’s U.S. Patent No. 8,731,963 (the “’963 patent”) (D.I. 1) in connection with Avadel’s submission to the United States Food and Drug Administration (“FDA”) of New Drug Application (“NDA”) No. 214755 seeking FDA approval to market a sodium oxybate drug product (“Avadel’s NDA Product”);

WHEREAS Avadel filed counterclaims in the Action for noninfringement and invalidity of the ’963 patent (D.I. 11);

The parties, by and through their respective undersigned counsel in the Action, and subject to the approval of the Court, stipulate and agree as follows:

1. Pursuant to Fed. R. Civ. P. 41(a)(2), Jazz hereby dismisses without prejudice its claim that Avadel’s NDA Product described in Avadel’s NDA No. 214755 infringes the ’963 patent in this Action.

2. Pursuant to Fed. R. Civ. P. 41(a)(2) and 41(c), Avadel hereby dismisses without

prejudice its counterclaims for noninfringement and invalidity against the '963 patent in this Action.

3. Nothing herein shall prevent the parties from seeking or obtaining other relief in the Action, including with respect to the other patents-in-suit in the Action, which remain pending and are not affected by this Stipulation.

Dated: March 6, 2023

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SO ORDERED this _____ day of March, 2023.

United States District Court Judge