United States District Court,
D. Delaware.

SANTARUS, INC., a Delaware corporation, and the Curators of the University of Missouri, a public corporation and body politic of the State of Missouri,
Plaintiffs.
v.
PAR PHARMACEUTICAL, INC., a Delaware corporation,
Defendant.

C.A. No. 07-551 (GMS)

Nov. 5, 2008.

Jack B. Blumenfeld, James Walter Parrett, Jr., Morris, Nichols, Arsht & Tunnell, Wilmington, DE, for Plaintiffs.

Frederick L. Cottrell, III, Steven J. Fineman, Richards, Layton & Finger, PA, Wilmington, DE, Aziz Burgy, Pro Hac Vice, Janine A. Carlan, Pro Hac Vice, Timothy W. Bucknell, Pro Hac Vice, for Defendant.

ORDER CONSTRUING THE TERMS OF U.S. PATENT NOS. 6,489,346***;*** 6,669,885***; AND*** 6,645,988

GREGORY M. SLEET**, Chief Judge.**

After considering the submissions of the parties and hearing oral argument on the matter, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that, as used in the asserted claims of U.S. Patent No. 6,489,346 (the "'346 patent"), U.S. Patent No. 6,669,885 (the "'885 patent"), and U.S. Patent No. 6,645,988 (the "'988 patent"):

1. The term "solid pharmaceutical composition in a dosage form" in claims 24 and 57 of the '346 patent is construed as "a solid dosage form that is pharmaceutically acceptable for storage, shipping, and administration, including a powder that can be combined with an aqueous medium then orally administered."

2. The term "combining the dosage form of claim 57 with an aqueous medium" in claim 90 of the '346 patent is construed as "requires combination with a medium that includes water."

3. The term a "solid oral pharmaceutical dosage form" in claim 29 of the ' 988 patent and in claim 1 of the '885 patent is construed as "a solid dosage form that is pharmaceutically acceptable for storage, shipping, and administration, including a powder that can be combined with an aqueous medium then orally administered."

4. The term a "at least one optional Secondary Essential Buffer" in claim 29 of the '988 patent is construed

as "a buffering agent that is not required in every formulation, but which can be combined with Primary Essential Buffers to produce a higher pH and added neutralization capacity for the formulation."

5. The term "mixing ... with an aqueous medium" in claim 3 of the '885 patent is construed as "requires mixing with a medium that includes water."

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