

Interlocutory Orders, Etc.

IN THE MATTER OF

AGILENT TECHNOLOGIES, INC.

Docket No. C-4292. Order, October 4, 2018

Letter approving application of Agilent Technologies, Inc. to allow the cross-license of certain intellectual property between Agilent and Analytik Jena AG.

LETTER ORDER APPROVING CROSS-LICENSE

Matthew C. Parrott, Esq.
Gibson, Dunn & Crutcher LLP

Re: *In the Matter of Agilent Technologies, Inc., Docket No. C-4292*

Dear Mr. Parrott:

This is in reference to the Application for Approval of Proposed Cross-License of certain intellectual property between Agilent Technologies, Inc. and Analytik Jena AG. Pursuant to Rule 2.41(f) of the Commission's Rules of Practice, the Commission has determined to approve the Application. In according its approval to Agilent's Application, the Commission has relied upon the information submitted by Agilent, and the Commission has assumed that information to be accurate and complete.

By direction of the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF
IMPAX LABORATORIES, INC.

Docket No. 9373. Order, November 1, 2018

Order granting non-party Endo Pharmaceuticals Inc.'s motion for leave to produce a copy of the *in camera* testimony Endo witness, Dr. Robert Cobuzzi, provided at trial in the captioned action to the MDL Plaintiffs in the litigation pending in the Northern District of Illinois styled as *In re Opana ER Antitrust Litigation*, 14-cv-10150.

ORDER GRANTING NON-PARTY ENDO PHARMACEUTICALS INC.'S MOTION TO PRODUCE CERTAIN
IN CAMERA MATERIALS TO MDL PLAINTIFFS

Non-party Endo Pharmaceuticals, Inc. ("Endo") moves for leave to produce a copy of the *in camera* testimony of Endo witness, Dr. Robert Cobuzzi, provided in the evidentiary hearing in the above-captioned proceeding, to the MDL Plaintiffs¹ in the litigation pending in the Northern District of Illinois styled as *In re Opana ER Antitrust Litigation*, 14-cv-10150.² Endo explains that Dr. Cobuzzi's testimony was requested in discovery in that litigation, and that Endo agreed to produce a copy subject to the confidentiality protections of the Protective Order in that case.

Neither Complaint Counsel nor Impax, the only parties in the FTC's administrative proceeding, objected to Endo's motion. Although some of the material Endo seeks to release arguably could discuss information Impax regards as confidential, *see* Tr. 2525-26, Impax has had more than ten business days' notice of Endo's motion and has raised no objection. *Cf.* 16 C.F.R. § 3.31 at Appendix ¶ 11 (requiring ten business days' notice before, in response to a discovery request in another matter, a party may produce confidential material submitted by another party or a third party). Under these circumstances, we see no reason to prevent Endo from releasing the testimony of its witness as described, and for the purpose set forth, in Endo's motion. Accordingly,

IT IS ORDERED that Non-Party Endo Pharmaceuticals Inc.'s Motion to Produce Certain *In Camera* Materials to MDL Plaintiffs is hereby **GRANTED**; and

IT IS FURTHER ORDERED that orders in this administrative proceeding providing for *in camera* treatment remain in effect for all other purposes.

By the Commission.

1 The MDL Plaintiffs are Direct Purchaser Plaintiffs Value Drug Company; Meijer, Inc. and Meijer Distribution Inc.; End-Payor Plaintiffs Plumbers and Pipefitters Local 178 Health & Welfare Trust Fund, Louisiana Health Service & Indemnity Company, d/b/a Blue Cross and Blue Shield of Louisiana, Fraternal Order of Police, Miami Lodge 20, Insurance Trust Fund, Wisconsin Masons' Health Care Fund, Pennsylvania Employees Benefit Trust Fund, International Union of Operating Engineers, Local 138 Welfare Fund and Mary Davenport; and Retailer Plaintiffs Rite Aid Corporation, Rite Aid Hdqtrs. Corp., CVS Pharmacy, Inc., Walgreen Co., The Kroger Co., Safeway, Inc., HEB Grocery Company, L.P. and Albertson's LLC.

2 The pertinent testimony appears in the transcript of this administrative proceeding at Tr. 2526:14 through 2538:18 and at Tr. 2608:12 through 2623:19.