

Interlocutory Orders, Etc.

IN THE MATTER OF

**WATSON PHARMACEUTICALS INC.,
ACTAVIS INC.,
ACTAVIS PHARMA HOLDING 4 EHF.,
AND
ACTAVIS S.Á.R.L.**

Docket No. C-4373. Order, December 17, 2018

Letter Order approving the Fourth Amendment to the Development and Manufacturing Services Agreement.

LETTER ORDER APPROVING AMENDMENT

Maria A. Raptis, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP

Re: *In the Matter of Watson Pharmaceuticals Inc., et al., Docket No. C-4373*

Dear Ms. Raptis:

This letter responds to the Petition of Respondent Teva Pharmaceutical Industries Ltd. to Reopen and Modify Decision and Order (“Petition”) filed on October 22, 2018. The Petition was placed on the public record for comments until November 23, 2018, and no comments were received. In its Order Reopening and Modifying Order, issued on December 17, 2018, the Commission reopened and modified the Decision and Order as requested in the Petition.

The Commission also approved the Proposed Fourth Amendment to the Development and Manufacturing Services Agreement as requested in the Petition. In according its approval, the Commission has relied upon the information submitted and the representations made in the Petition and has assumed them to be accurate and complete.

By direction of the Commission, Commissioner Wilson recused.

Interlocutory Orders, Etc.

IN THE MATTER OF

1-800 CONTACTS, INC.

Docket No. 9372. Order, December 19, 2018

Order granting in part respondent's motion to exceed the word count limits set forth in Commission Rule 3.22(c), 16 C.F.R. § 3.22(c).

ORDER EXTENDING WORD COUNT LIMITATIONS

On December 10, 2018, Respondent 1-800 Contacts filed an Application for a partial stay of the Commission Final Order in this matter.¹ On December 11, Respondent filed a Motion requesting that the Commission permit its Application; Complaint Counsel's Answer, if any; and Respondent's Reply, if any, to exceed the word count limits set forth in Commission Rule 3.22(c), 16 C.F.R. § 3.22(c).² In particular, Respondent requests that the Commission increase the word limit for its Application and for Complaint Counsel's Answer to 5,350 words, and that the Commission increase the word limit for Respondent's Reply to 2,500 words. Respondent advises that Complaint Counsel do not oppose the Motion.

Commission Rule 3.56(d), 16 C.F.R. § 3.56(c), which governs applications for stay of Commission Final Orders, does not include a word count limit. Therefore, the word count limits set forth in Commission Rule 3.22(c) for motions other than dispositive motions apply to applications for stay, answers thereto, and replies in support of such applications. Commission Rule 3.52(k), 16 C.F.R. § 3.52(k), provides, with respect to appellate briefs, that "[e]xtensions of word count limitations are disfavored, and will only be granted where a party can make a strong showing that undue prejudice would result from complying with the existing limit." The same principles apply to all other filings in adjudicative proceedings. Here, however, the parties are following an abbreviated schedule with respect to Respondent's Application "[i]n order to

avoid conflicts with religious holidays and the New Year's holiday."³ Consequently, Respondent filed its Application on December 10, 2018, sixteen days before it was due, and Complaint Counsel's Answer was due December 18, 2018. Respondent has advised that its Application contains 5,332 words, and it would be unfair to require Complaint Counsel to adhere to a lower word count limit. No such basis, however, exists for a corresponding increase in the word count limit for any Reply that may be filed. Accordingly,

IT IS ORDERED THAT Respondent's Application and Complaint Counsel's Answer may each contain up to 5,350 words; and

1 See Respondent 1-800 Contacts, Inc.'s Application For A Stay Pending Review By A United States Court of Appeals (Dec. 10, 2018), <https://www.ftc.gov/system/files/documents/cases/121018respondentappstaypendingreviewuscourtappeals593147.pdf>.

2 See Respondent's Unopposed Motion To Exceed the Word Count Limit in 16 C.F.R. § 3.22(c) (Dec. 11, 2018), <https://www.ftc.gov/system/files/documents/cases/121118respondentunopposedmotion593161.pdf>.

3 See Joint Motion Regarding the Schedule For Respondent's Application For Stay (Dec. 10, 2018), <https://www.ftc.gov/system/files/documents/cases/121018jointmotionrespappforstay593148pdf.pdf>.