

Federal Court



Cour fédérale

Date: 20140522

Docket: T-1310-09

Toronto, Ontario, May 22, 2014

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

**ABBVIE CORPORATION, ABBVIE
DEUTSCHLAND GMBH & CO. KG AND
ABBVIE BIOTECHNOLOGY LTD.**

**Plaintiffs
Defendants by
Counterclaim**

and

JANSSEN INC.

**Defendant/
Plaintiff by
Counterclaim**

JUDGMENT

UPON THIS COURT HAVING MADE a finding of validity and infringement of
Claims 148 and 222 of Canadian Letters Patent 2,365,281 on January 17, 2014; and

UPON THIS COURT HAVING ORDERED that the Plaintiffs' claims for injunctive
relief be tried commencing May 12, 2014 at Toronto;

UPON reading the evidence submitted and hearing the witnesses brought before me on
May 12, 13 and 14, 2014;

AND UPON hearing the submissions of Counsel for the Plaintiffs and the Defendant;

AND for the Reasons Provided:

THE COURT ADJUDGES AND ORDERS THAT:

[1] The Defendant Janssen Inc., its officers, directors, servants, agents, employees, all those with whom it acts in concert, and all those over whom it exercises control (hereinafter Janssen) is hereby enjoined until the expiry of Canadian Letters Patent No. 2,365,281 from making, using, selling, offering for sale, or promoting the use of a product, in Canada, for the treatment of psoriasis; which product falls within the scope of either or both of claims 143 and 222 of said patent; and, in particular, the product which it calls STELARA.

[2] The injunction set out in paragraph 1, above, shall not prohibit Janssen from:

- A. doing any act solely intended to provide STELARA to a patient who, on the date hereof, has already received at least one injection of STELARA as a treatment for psoriasis and remains on such treatment by the prescription of that person's own physician; and
- B. doing any act solely intended to provide STELARA for the treatment of psoriasis to a person who has not previously received STELARA for that purpose, provided that such person's own physician has determined that such treatment is necessary for that purpose.

Provided that Janssen shall not communicate directly or indirectly with any such physician for the purpose of influencing the decision to initiate or continue such treatment.

[3] For greater certainty and without restricting the generality of the injunction provided herein:

- A. Janssen shall not, directly or indirectly, detail, advertise, promote or make any representations or claims, in Canada, respecting the use of STELARA for the treatment of psoriasis;

- B. Janssen shall terminate all advertising in all media published, broadcast, or received in Canada respecting the use of STELARA for psoriasis; and
- C. Janssen shall not commence any Phase IV clinical trial in Canada respecting the use of STELARA for psoriasis unless required to do so by law.

[4] For greater certainty, and without restricting the generality of the injunction provided herein:

- A. Janssen is not precluded from communicating, by email, facsimile transmission, or postal service, information required by law to be disseminated by it;
 - B. Janssen may continue to operate its BioAdvance programme for existing and new patients described in paragraph 2, above;
 - C. Janssen may continue to operate its GRASP programme for psoriatic arthritis;
 - D. Janssen's Medical Information Group may respond to enquiries about STELARA;
 - E. Janssen is not precluded from compliance with requests made by Health Canada;
- and

F. Janssen product representatives, also known as detailers, are not precluded from detailing the use of STELARA for use in treatment of psoriatic arthritis to rheumatologists.

[5] The Plaintiffs are entitled to recover their costs from the Defendant on the basis as set out in the Reasons.

“Roger T. Hughes”

Judge