

ORAL ORDER, Having reviewed the parties' submissions and heard oral argument relating to two disputes over the otherwise agreed-upon protective order (PO) in Civil Actions 18-192-CFC, 18-237-CFC, 18-247-CFC, and 18-275-CFC, IT IS HEREBY ORDERED that Defendants proposal with respect to paragraphs 19 and 20 of the contemplated PO, which would prohibit Plaintiffs from disclosing confidential information (CI) produced to Plaintiffs in discovery by any one Defendant to the outside counsel and experts of any other Defendant without first obtaining the producing Defendants consent, is REJECTED for the reasons stated by the Court and made clear by the Courts questioning of the parties at oral argument on October 17, 2018. The Court further notes that its decision was informed by the following: (1) this action is one of four actions that have been effectively consolidated for pre-trial purposes with a single schedule (including a consolidated Markman hearing) and common discovery; (2) Plaintiffs have proposed a reasonable alternative to Defendants' proposal that would limit the cross-disclosure of CI to Defendants' outside counsel and experts; (3) Defendants agree that their outside counsel are not competitive decision makers and are subject to an agreed-upon prosecution bar in the contemplated PO; (4) the deadline for the parties to identify their respective experts affords each Defendant sufficient time to seek Court intervention in the event a Defendant believes (i) an identified expert is a competitive decision maker or should be subject to the PO's prosecution bar, and/or (ii) good cause exists to prohibit the expert in question from having access to a Defendants CI; (5) Defendants' proposal would place an undue, unfair, and unnecessary burden on Plaintiffs; (6) Defendants' proposal would lead to significant disruptions in discovery, depositions, and court proceedings and would impose an undue burden on the Court; and (7) Defendants have not demonstrated that restrictions beyond Plaintiffs' proposed alternative are necessary to avoid the risk that a co-Defendant would use a producing Defendants' CI's to the competitive disadvantage of the producing Defendant. Ordered by Judge Colm F. Connolly on 10/18/2018. Associated Cases: 1:18-cv-00192-CFC, 1:18-cv-00237-CFC, 1:18-cv-00247-CFC, 1:18-cv-00275-CFC(nmf) (Entered: 10/18/2018)

As of October 19, 2018, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

Pharmacyclics LLC et al v. Fresenius Kabi USA, LLC et al
1-18-cv-00192 (DED), 10/18/2018, docket entry