

FILED / PRODUIT

Date: September 29, 2023
CT-2023-007

Sara Pelletier for / pour
REGISTRAR / REGISTRAIRE

File No. CT-2023-007

OTTAWA, ONT.

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COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34 (the “**Act**”);

AND IN THE MATTER OF an application by Apotex Inc. for an order pursuant to section 103.1 of the Act granting leave to bring an application under section 79 of the Act;

AND IN THE MATTER OF an application by Apotex Inc. for an order pursuant to section 79 of the Act;

BETWEEN:

APOTEX INC.

Applicant

– and –

**PALADIN LABS INC., ENDO PHARMACEUTICALS INC.,
TAKEDA CANADA INC., and TAKEDA PHARMACEUTICALS U.S.A. INC.**

Respondents

NOTICE OF APPLICATION FOR LEAVE

(Pursuant to section 103.1 of the *Competition Act*)

TAKE NOTICE THAT:

1. The Applicant will make an application to the Competition Tribunal (“**Tribunal**”) on a date and time to be set by the Tribunal at Ottawa or Toronto, Ontario pursuant to section 103.1 of the *Competition Act* (the “**Act**”) seeking leave to bring an application for:
 - a. an Order pursuant to section 79(1) of the Act prohibiting Respondents for a period of 10 years from engaging in (i) practices that hinder or delay the supply to the Applicant of ICLUSIG® (ponatinib) (“**ICLUSIG**”) or any other drug supplied by Respondents for which Respondents have received a Notice of Compliance under

the *Food and Drug Regulations* and (ii) other practices that form the basis for the within Application;

- b. an Order pursuant to section 79(2) of the Act requiring Respondents, jointly and severally, to supply 360 tablets of 15 mg ICLUSIG to the Applicant, or such other volumes of ICLUSIG as the Applicant may reasonably request, within five business days of the Tribunal's Order, at the same price applicable to other sales of ICLUSIG in Canada;
 - c. an Order pursuant to section 79(3.1) of the Act requiring Respondents, jointly and severally, to pay an administrative monetary penalty represented by the amount of revenue earned by Paladin Labs Inc. from the sale of ICLUSIG in Canada between September 22, 2023 and the date of the Order, multiplied by three, or such other amount as the Applicant may request and the Tribunal deems just;
 - d. an Order for interim relief, if the Applicant so requests;
 - e. an Order expediting the hearing of the within Application;
 - f. an Order for costs of the within Application; and
 - g. such further and other orders as the Applicant may request and the Tribunal deems just.
2. The persons against whom the orders are sought are the Respondents: Paladin Labs Inc., Endo Pharmaceuticals Inc., Takeda Canada Inc. and Takeda Pharmaceuticals U.S.A. Inc. Respondents' addresses are set out below.
 3. The Applicant will rely on the Statement of Grounds and Material Facts attached as Schedule "A" to the proposed Notice of Application; the Affidavit of Nick Boorman, sworn September 29, 2023; the Memorandum of Fact and Law accompanying this Application; and such further or other material as counsel may advise and the Tribunal may permit.
 4. The Applicant requests that this Application be heard in the English language.

5. The Applicant requests that the documents for this Application be filed in electronic form.

Dated at Toronto this 29th day of September, 2023.

David Rosner

Per: *J. M.*

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AND TO: Matthew Boswell
Commissioner of Competition
Competition Bureau
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Gatineau, QC K1A 0C9
Tel: 819-997-4282

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**AND TO: Jean De Serres, Vice President Scientific Affairs
Paladin Labs Inc.**
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Phone: 514-340-1112
Fax: 514-344-4675

**AND TO: Matthew J. Maletta, Chief Legal Officer
Endo Pharmaceuticals Inc.**
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Phone: 484-216-0000
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**AND TO: Matthew Castellarin, Head of Legal, Canada
Takeda Canada Inc.**
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**AND TO: Yoshihiro Nakagawa, Global General Counsel
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Phone: 617-349-0200

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