

**FILED / PRODUIT**

Date: October 3, 2023

CT- 2023-007

Annie Ruhlmann for / pour  
REGISTRAR / REGISTRAIRE

File No. CT-2023-007

OTTAWA, ONT.

# 11

**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

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**AMENDED NOTICE OF APPLICATION FOR LEAVE**

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

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**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 Takeda Canada Inc. and Takeda Pharmaceuticals U.S.A. Inc. 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 29<sup>th</sup> day of September, 2023.



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**Lawyers for the Applicant**

**TO: The Registrar  
Competition Tribunal  
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Ottawa, ON K1P 5B4  
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**AND TO: Matthew Boswell  
Commissioner of Competition  
Competition Bureau  
50 Victoria Street**

Gatineau, QC K1A 0C9  
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**AND TO: Jean De Serres, Vice President Scientific Affairs  
Paladin Labs Inc.**  
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**AND TO: Matthew J. Maletta, Chief Legal Officer  
Endo Pharmaceuticals Inc.**  
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**AND TO: Matthew Castellarin, Head of Legal, Canada  
Takeda Canada Inc.**  
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Phone: 866-397-4473

**AND TO: Yoshihiro Nakagawa, Global General Counsel  
Takeda Pharmaceuticals U.S.A. Inc.**  
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Phone: 617-349-0200

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**(Pursuant to s. 103.1 of the *Competition Act*)**

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