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 JAMP Pharma Corporation 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 JAMP Pharma Corporation for an order pursuant to section 79 of the Act;

BETWEEN:

JAMP PHARMA CORPORATION

Applicant

– and –

JANSSEN INC.

Respondent

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 subsection 79(1) of the Act prohibiting the Respondent:

        i. for a period of 10 years from (a) marketing, selling or otherwise taking any other action in respect of FINLIUS® ("**Finlius**"), and (b) seeking approval from the Minister of Health, marketing, selling or otherwise taking any other action for any other "relabelled biologic" drug;

ii. for a period of 10 years from licensing to any third party the rights to seek approval for, market, sell or otherwise taking any other action in respect of any "relabelled biologic" drug;

iii. for a period of 5 years from offering a drug that is biosimilar to STELARA® ("**Stelara**") through or in connection with the Janssen BioAdvance® patient services program ("**BioAdvance**");

iv. except as it concerns Stelara, for a period of 5 years from communicating to third parties that a biosimilar drug, interchangeable drug or bioequivalent drug will be offered through or in connection with BioAdvance unless such drug is identified by its manufacturer and brand in the same communication(s);

v. for a period of 5 years from charging any individual third party fees to obtain services provided under BioAdvance that are in excess of 110% the Respondent's actual costs of administering BioAdvance for the incremental benefit of that individual third party;

vi. for a period of 5 years from enforcing or threatening to enforce non-disclosure agreements against health care professionals, or withholding any thing of value or threatening to withhold any thing of value from health care professionals, due in whole or in part to any health care professional's decision to prescribe, administer or deal in any drug, accept or consider marketing of any drug by a third party, or make decisions in accordance with the health care professional's exercise of their knowledge, skill and judgment relating to any patient or other matter; and

vii. for a period of 5 years from communicating with any patient enrolled in BioAdvance about (a) the availability of any biosimilar drug, interchangeable drug or bioequivalent drug and (b) the requirements, rules or procedures of any insurance plan or reimbursement scheme as it pertains to any biosimilar drug, interchangeable drug or bioequivalent drug, unless prior approval is obtained from the monitor described in paragraph 1.b.ii.

b. an Order pursuant to subsection 79(2) of the Act:

   i. requiring the Respondent to communicate with all health care professionals whose patients were enrolled in BioAdvance for Stelara between January 1, 2021 and the date of the Order that (i) Finlius is not a biosimilar product, (ii) Finlius will not be marketed for 10 years, (iii) no drug that is biosimilar to Stelara will be offered through or in connection with BioAdvance for 5 years, (iv) the Respondent is prohibited from taking the actions described in paragraph 1.a.vi, (v) the Respondent's marketing and sale of biologic drugs is overseen by a monitor as described in paragraph 1.b.ii, and (vi) the email address and phone number of that monitor, on terms that the Applicant will advise or that the Tribunal deems just; and

   ii. appointing a monitor, responsible for monitoring compliance by the Respondent with the Order and compliance with section 79 of the *Competition Act* as it pertains to the Respondent's marketing and sale of biologic drugs in Canada for a period of 5 years, on terms that the Applicant will advise or that the Tribunal deems just.

c. an Order pursuant to subsection 79(3.1) of the Act requiring the Respondent to pay, in any manner that the Tribunal specifies, an administrative monetary penalty in an amount of three times the value of the benefit derived from the Respondent's anti-competitive practices, which is at least $1,000,000,000, or such other amount as the Applicant may request and the Tribunal deems just;

d. an Order expediting the hearing of the within Application;

e. an Order for costs, if the within Application is opposed; and

f. such further and other interim orders as the Applicant may request and the Tribunal deems just.

AND TAKE NOTICE THAT:

2. The person against whom the order is sought is the Respondent: Janssen Inc. The Respondent's address is 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 Sukhad Juneja, sworn July 25, 2024; the Affidavit of Amélie Faubert, sworn July 25, 2024; the Affidavit of Genia Radeva, sworn July 25, 2024; the Affidavit of Emily Seaby, sworn July 26, 2024; 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 26th day of July, 2024.

David Rosner

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AND TO: **Matthew Boswell**
Commissioner of Competition
Competition Bureau
50 Victoria Street
Gatineau, QC K1A 0C9
Tel: 819-997-4282
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AND TO: **Karin McCaig, Vice President, Law**
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File No. CT-2024-006

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