

United States District Court,
D. New Jersey.

SHIRE LABORATORIES, INC,
Plaintiff.

v.

COREPHARMA, LLC,
Defendants.

Civil Action No. 06-2266 (SRC)

March 26, 2008.

Arnold B. Calmann, Rina Grassotti, Saiber LLC, Newark, NJ, for Plaintiff.

Eric I. Abraham, Hill Wallack, LLP, Princeton, NJ, Mark E. Waddell, Loeb & Loeb LLP, New York, NY,
for Defendants.

ORDER

CHESLER, District Judge.

This matter having come before the Court upon the applications by Plaintiff Shire Laboratories, Inc. [docket item # 136] and Defendant Corepharma, LLC [docket item # 133] for claim construction to resolve disputes over the construction of four claim terms in U.S. Patent No. 5,326,570 ("the '570 patent"); and Nostrum Pharmaceuticals, Inc. having filed an amicus brief [docket item # 134]; and all parties having filed responsive papers [docket items # 161, 162, 163]; and the Court having decided to adjudicate the matter based upon the parties' written submissions pursuant to Federal Rule of Civil Procedure 78; and the Court having considered the papers filed by the parties; and for the reasons expressed in the Opinion filed herewith and for good cause shown,

IT IS on this 26th day of March, 2008,

ORDERED that

(1) the term "unit" in claims 1 and 18 of the '570 patent shall be construed in all future proceedings, pursuant to *Markman v. Westview Instruments, Inc.*, 52 F.3d 967 (Fed.Cir.1995), as a single thing or entity that is a constituent or isolable member of a more inclusive whole, being the least part of the whole to have a clearly definable existence separate or different from other parts of the whole; and

(2) the term "immediate release unit" in claims 1 and 18 of the '570 patent shall be construed in all future proceedings, pursuant to *Markman*, 52 F.3d 967, as a unit, as defined above, which begins to release the carbamazepine upon ingestion; and

(3) the term "sustained release unit" in claims 1 and 18 of the '570 patent shall be construed in all future proceedings, pursuant to Markman, 52 F.3d 967, as a unit, as defined above, which provides for a gradual release of carbamazepine over time in the gastro-intestinal tract; and

(4) the term "enteric release unit" in claims 1 and 18 of the '570 patent shall be construed in all future proceedings, pursuant to Markman, 52 F.3d 967, as unit, as defined above, which provides for a delayed release of carbamazepine in the lower gastro-intestinal tract.

D.N.J.,2008.

Shire Laboratories, Inc. v. Corepharma, LLC

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