

Federal Court



Cour fédérale

Date: 20220520

Docket: T-555-20

Citation: 2022 FC 995

Toronto, Ontario, May 20, 2022

PRESENT: Madam Justice Pallotta

BETWEEN:

**JANSSEN INC. AND ACTELION
PHARMACEUTICALS LTD**

Plaintiffs

and

APOTEX INC.

Defendant

JUDGMENT

**[Note: This Judgment has been varied pursuant to the terms of
the Order issued by Justice Pallotta on October 3, 2022]**

THIS COURT'S JUDGMENT is that:

1. This Court declares that the selling, offering for sale, marketing or having marketed APO-MACITENTAN 10mg film-coated tablets by Apotex in Canada in accordance with its Abbreviated New Drug Submission No. 236527 (Apotex Product) would infringe claims 1-5 and 21-31 of Canadian Patent No. 2,659,770 indirectly, by inducing infringement.

2. Apotex and its subsidiary, parent, related and affiliated companies, officers, directors, employees, agents, licensees, successors, assigns and any others over whom Apotex exercises lawful authority, direction or control, whether directly or indirectly, are enjoined until the expiry of Canadian Patent No. 2,659,770 on August 28, 2027 from:
 - a. selling the Apotex Product in Canada;
 - b. offering for sale, marketing or having the Apotex Product marketed in Canada; and
 - c. distributing or having the Apotex Product distributed in Canada.

3. Apotex shall deliver up to the plaintiffs or destroy under oath, at the plaintiffs' election, all things in its power, possession or control, whether physical or electronic in nature, that would offend the injunction in paragraph 2 above including, without limitation, any product packaging, product labels, product monographs, or other educational or promotional materials referring or relating to the Apotex Product, except to the extent that Apotex is required by law to retain copies of such things.

4. Costs of the action are reserved. Within 7 days, the parties shall provide a draft order reflecting their agreement on costs, together with a joint proposal and timetable for resolving any outstanding cost issues.

"Christine M. Pallotta"
Judge