

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

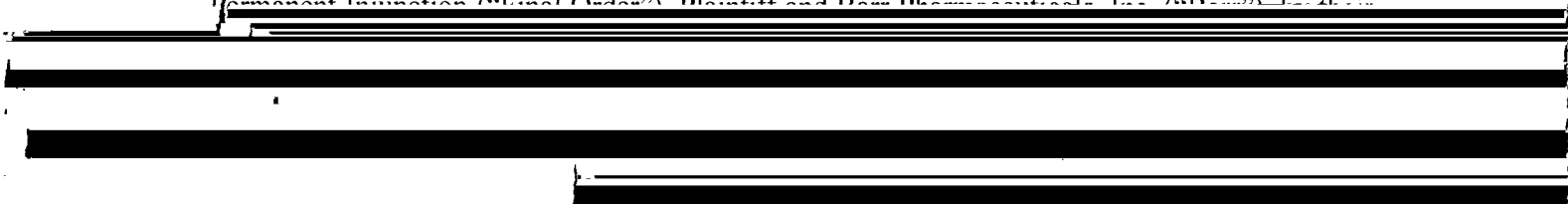
)	
FEDERAL TRADE COMMISSION,)	
)	Civil Action No. 1:05-cv-02179-CKK-AK
Plaintiff,)	
)	Judge Collen Kollar-Kotelly
v.)	
)	Magistrate Judge Alan Kay
BARR PHARMACEUTICALS, INC.,)	
)	
Defendant.)	
)	

FINAL ORDER AND STIPULATED PERMANENT INJUNCTION

WHEREAS Plaintiff, Federal Trade Commission (“Commission”), filed its First Amended Complaint on December 5, 2005, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), seeking injunctive and other equitable relief for alleged violations of Section 5 of the FTC Act, 15 U.S.C. § 45;

AND WHEREAS, in conjunction with the filing of this Final Order and Stipulated

~~Permanent Injunction (“Final Order”), Plaintiff and Barr Pharmaceuticals, Inc. (“Defendant”) have~~



AND WHEREAS, Defendant Barr has launched the generic product at issue in the

entering into certain identified types of agreements in the future;

AND WHEREAS, Defendant Barr has represented to the Plaintiff that the relief required below can and will be made and that Defendant Barr will later raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the terms of the relief contained below;

AND WHEREAS, Barr retains the right to seek to modify this Final Order, either unilaterally or jointly with the Commission (at the Commission's discretion), pursuant to Fed. R.

- D. Entry of this order is in the public interest.

II. Definitions

As used in this Final Order:

- A. "Agreement" means anything that would constitute a contract, combination, or conspiracy within the meaning of Section 1 of the Sherman Act, 15 U.S.C. § 1, regardless of whether such contract, combination, or conspiracy is in restraint of trade

- B. "ANDA" means an abbreviated new drug application filed under Section 505(j) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 355(j).

- C. "ANDA Filer" means the party to a Branded/Generic Supply Agreement or a Branded/Generic Agreement who controls an ANDA for the Subject Drug Product or has

I. "Drug Product" means a finished dosage form (e.g., tablet, capsule, or solution), as defined in 21 C.F.R. § 314.3(b), that contains a drug substance, generally, but not necessarily, in association with one or more other ingredients.

J. "Enter Into" and "Entering Into" means join, participate in, implement, adhere to

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

of the Transfer Agreement, to use commercially reasonable efforts to exploit such rights as soon as practicable; (iii) Barr has agreed in good faith to supply (which includes, if applicable, acting in good faith to obtain the regulatory and other approvals necessary to supply) the Subject Generic Product to such Qualifying Pharmaceutical Company on such terms and conditions that will allow the Qualifying Pharmaceutical Company to compete effectively for sales of the Subject Generic Equivalent until such time as the Qualifying Pharmaceutical Company can manufacture commercial quantities of the Subject Generic Product on its own or obtain commercial quantities of the Subject Generic Equivalent from another source. (iv) Barr has

[REDACTED]

[REDACTED]

which Barr is the ANDA Filer and agrees to refrain from or limit for any period of time the research, development, manufacturing, marketing, distribution, or sale of the Subject Drug Product, except those that resolve a Patent Infringement Claim (“Agreements Subject to Notification”).

- B. The notification required by Paragraph IV.A. shall be made within the later of: (i) thirty (30) days after the entry of this Final Order, or (ii) within ten (10) business days after the Agreement Subject to Notification is executed.
- C. The notification required by Paragraph IV.A. of this Final Order shall be in the form of a letter (“Notification Letter”) submitted to the Commission containing the following information: (1) a statement that the purpose of the Notification Letter is to give the

Commission notification of an Agreement Subject to Notification as required by Paragraph IV of this Final Order; (2) identification of all Persons involved in the Agreement Subject to Notification; and (3) a copy of the Agreement Subject to Notification, and in the event that any Agreement Subject to Notification has not been reduced to text, written descriptions of such Agreement Subject to Notification that are sufficient to disclose all the terms and conditions of the Agreement Subject to

of Competition, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

V. Notice and Reporting Requirements

It is further ordered that:

- A. Barr shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with this Final Order: (1) within ninety (90) days from the date this Final Order is entered, (2) annually thereafter for three (3) years on the anniversary of the date this Final Order is entered, and (3) at any such other times as the Commission may request by written notice.
- B. For a period of three (3) years from the date this Final Order is entered, Barr shall maintain and make available to Commission staff for inspection and copying upon reasonable notice, records sufficient to describe in detail any action taken in connection with the activities covered by this Final Order.

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VI. Termination of Final Order

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: This Final Order shall take effect on, and expire ten (10) years from, the date this Final Order is entered.


VII. Retention of Jurisdiction

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: The Court retains jurisdiction of this matter for purposes of construction, modification and enforcement of this Final Order

VIII. Dismissal and Costs

IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT: This action shall be dismissed with prejudice. Each party shall bear its own costs of this action.

Entered this 27th day of Nov., 2007.


Colleen Kollar-Kotelly
U.S. District Judge