

Federal Court



Cour fédérale

**Date: 20210112**

**Docket: T-396-13**

**Citation: 2021 FC 41**

**Ottawa, Ontario, January 12, 2021**

**PRESENT: The Honourable Mr. Justice Phelan**

**BETWEEN:**

**HOSPIRA HEALTHCARE CORPORATION**

**Plaintiff**

**and**

**THE KENNEDY TRUST FOR  
RHEUMATOLOGY RESEARCH**

**Defendant**

**AND BETWEEN:**

**THE KENNEDY TRUST FOR  
RHEUMATOLOGY RESEARCH,  
JANSSEN BIOTECH, INC., JANSSEN INC.,  
CILAG GmbH INTERNATIONAL and CILAG AG**

**Plaintiffs by Counterclaim**

**and**

**HOSPIRA HEALTHCARE CORPORATION,  
CELLTRION HEALTHCARE CO., LTD., CELLTRION, INC.,  
PFIZER CANADA INC. and PFIZER CANADA ULC**

**Defendants to the Counterclaim**

**JUDGMENT UPON RECONSIDERATION**

**UPON** the trial of the Liability Phase of this action (as defined in the bifurcation Order dated February 24, 2014) being held in Toronto, Ontario and London, United Kingdom, on September 12-15, 19-22, 26-27 and 29-30, 2016, October 17 and 18, 2016 and January 17 and 18, 2017;

**FOR THE REASONS** set out in the Reasons for Judgment dated March 7, 2018, following the trial of the Liability Phase, this Judgment is issued as of September 28, 2018.

**THIS COURT ADJUDGES, ORDERS AND DECLARES:**

1. The Claim is dismissed;
2. The Counterclaim is granted except in respect of Celltrion Healthcare Co, Ltd and Celltrion, Inc for whom the Counterclaim is dismissed.
3. The style of cause is amended, as set out above, to add Cilag AG as a Plaintiff by Counterclaim and Pfizer Canada Inc as a Defendant to the Counterclaim;
4. Canadian Patent No. 2,261,360 (the “630 Patent”) is declared valid and was valid and subsisting up to the date of its expiry on August 1, 2017;
5. Pfizer Canada Inc and Hospira Healthcare Corporation (“Pfizer/Hospira”) have infringed claims 1, 2, 3, 5, 6, 9, 10, 17, 18, 19, 21, 22, 25, 26, 33, 37, 38, 39, 40, 41 and 42 of the 630 Patent;
6. The Kennedy Trust for Rheumatology Research, Janssen Biotech, Inc, Janssen, Inc, Cilag GmbH International and Cilag AG (“Kennedy/Janssen”) are entitled to receive from Pfizer/Hospira:

- a. full compensation for all damages sustained by Kennedy/Janssen as a result of the activities of Pfizer/Hospira which infringe or infringed claims 1, 2, 3, 5, 6, 9, 10, 17, 18, 19, 21, 22, 25, 26, 33, 37, 38, 39, 40, 41 and 42 of the 630 Patent, or
- b. an accounting of profits of Pfizer/Hospira made or being made as a result of the infringement of claims 1, 2, 3, 5, 6, 9, 10, 17, 18, 19, 21, 22, 25, 26, 33, 37, 38, 39, 40, 41 and 42 of the 630 Patent,

whichever Kennedy/Janssen may elect, after due inquiry and full discovery in the second phase of this action (the “Quantification Phase”);

7. Kennedy/Janssen are entitled to pre-judgment interest on the award of damages or accounting of profits, whichever they elect, at a rate to be determined and awarded in the Quantification Phase of this action;
8. Kennedy/Janssen are entitled to post judgment interest on the award of damages or accounting of profits, whichever they elect, at a rate to be determined and awarded in the Quantification Phase of this action; and
9. Kennedy/Janssen are entitled to their costs of the Liability Phase of this action up to and including March 7, 2018, in an amount to be fixed by the Court in a separate Order following submissions by the parties.

“Michael L. Phelan”

---

Judge