

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

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FEDERAL TRADE COMMISSION,))	
))	
Petitioner,))	
v.))	Misc. No. 3:14-mc-005-REP
))	
RECKITT BENCKISER))	
PHARMACEUTICALS, INC.,))	
))	
Respondent))	
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DECLARATION OF MARK R. LENTZ
IN SUPPORT OF RESPONDENT’S MOTION TO TRANSFER

I, Mark R. Lentz, hereby declare and state as follows:

1. I am an associate with the law firm of Jones Day, counsel for Respondent Reckitt Benckiser Pharmaceuticals, Inc., and I submit this declaration in support of Reckitt’s Motion to Transfer the above-captioned action from the Eastern District of Virginia to the Eastern District of Pennsylvania. I have personal knowledge of the following and, if called upon to testify, could and would do so competently as to the accuracy of the matters stated herein.

2. On September 2, 2014, I searched for cases since 2003 in which the Federal Trade Commission has filed a petition seeking to enforce a subpoena or civil investigative demand. To perform this search, I utilized Public Access to Court Electronic Records (PACER) website’s case location function, located on the internet at <https://www.pacer.gov/pcl.html>. Using the civil tab, I searched for cases in which the FTC was a party. I then filtered my search by Party Role, limiting the results to cases in which the FTC acted as a

petitioner. I downloaded the results of my search in spreadsheet form. A true and correct version of this spreadsheet, edited for readability, is attached as Exhibit 1.

3. I then reviewed the dockets for each case listed in Exhibit 1 to confirm that FTC did, in fact, petition to enforce subpoena or CID. Two cases, *FTC v. Johnson*, No. 1:12-mc-42-GK (D.D.C.), and *FTC v. IAB Marketing LP*, No. 1:12-mc-540 (D.D.C.)—did not involve subpoena or CID enforcement. The remaining eighteen results did.

4. Eight of these cases were filed in the District of Columbia. None involves a company located in that district. All but one, however, concerned antitrust investigations, including three pharmaceutical antitrust investigations against companies, or executives of companies, located in California, Nevada, New Jersey, Connecticut, Delaware, and Minnesota. See, e.g., *FTC v. Bisaro*, No. 1:10-mc-289-CKK (D.D.C.) (*Wabon Pharmaceuticals*, a Nevada company headquartered in California, but whose CEO, Paul Bisaro, was located in New Jersey); *FTC v. Boehringer Ingelheim Pharms., Inc.*, No. 1:09-mc-564-JMF (D.D.C.) (a Delaware company headquartered in Connecticut); *FTC v. Tarriff*, No. 1:08-mc-217-RCL (executives of *Par Pharmaceutical Cos.* and *Paddock Labs., Inc.*, which are located in Delaware and Minnesota, respectively). No pharmaceutical antitrust suits were filed in any other district.

5. Of the remaining ten cases, only one, *FTC v. Star Pipe Products, Ltd.*, No. 4:11-mc-399 (S.D. Tex.)—concerned allegations of anticompetitive behavior.¹ The other cases primarily concern false advertising or other statutory violations.

¹ A second petition did involve an antitrust-related investigation, but the FTC filed it in the Northern District of Ohio only after the District of Columbia dismissed an earlier petition for lack of jurisdiction. See *FTC v. Promedica Health Sys.*, No. 1:10-mc-586-RMC (D.D.C.) (filed Oct. 4, 2010 and dismissed Oct. 12, 2010); *FTC v. Promedica Health Sys.*, No. 3:10-cv-2340 (N.D. Ohio filed Oct. 13, 2010).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3rd day of September, 2014.

/s/ Mark R. Lentz

Mark R. Lentz (VSB No. 77755)
JONES DAY
51 Louisiana Avenue, NW
Washington, DC 20001
Tel: (202) 879-3939
Fax: (202) 626-1700
Email: mrlentz@jonesday.com

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will then send a notification of such filing (NEF) to the following:

Burke W. Kappler
FEDERAL TRADE COMMISSION
600 Pennsylvania Ave. NW
Washington, DC 20580
T: (202) 326-2043
bkappler@ftc.gov

Robert P. McIntosh
UNITED STATES ATTORNEY'S OFFICE
600 E. Main St., 18th Floor
Richmond, VA 23219
T: (804) 819-5400
Robert.Mcintosh@usdoj.gov

Counsel for Petitioner

/s/ Mark R. Lentz
William V. O'Reilly (VSB No. 26249)
Mark R. Lentz (VSB No. 77755)
JONES DAY
51 Louisiana Avenue, NW
Washington, DC 20001
Tel: 202.879.3939
Fax: 202.626.1700
woreilly@jonesday.com
mrlentz@jonesday.com

Counsel for Respondent

Exhibit 1

case_title	court_id	nos	cs_date	filed	case_no	case_link
Federal Trade Commission v. IFC Credit Corporation	ilndce	999	11/10/2005	1:2005-cv-06444		https://ecf.ilnd.uscourts.gov/cgi-bin/iquerymenu.pl?193172
Federal Trade Commission v. Nissan of Fontana	cacdce	890	8/1/2007	2:2007-cv-04976		https://ecf.cacd.uscourts.gov/cgi-bin/iquerymenu.pl?393468
Federal Trade Commission v. Dinamica Financiera LLC	cacdce	890	7/16/2008	2:2008-cv-04649		https://ecf.cacd.uscourts.gov/cgi-bin/iquerymenu.pl?420847
FEDERAL TRADE COMMISSION v. TAKE-TWO INTERACTIVE SOFTWARE, INC.	dcdce	890	6/5/2008	1:2008-mc-00360		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?131530
FEDERAL TRADE COMMISSION v. TARRIFF et al	dcdce	890	4/16/2008	1:2008-mc-00217		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?130739
FEDERAL TRADE COMMISSION v. POLYPORE INTERNATIONAL, INC.	dcdce	890	2/3/2009	1:2009-mc-00050		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?135019
FEDERAL TRADE COMMISSION v. BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.	dcdce	890	10/23/2009	1:2009-mc-00564		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?139057
FEDERAL TRADE COMMISSION v. BISARO	dcdce	890	4/27/2010	1:2010-mc-00289		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?141902
FEDERAL TRADE COMMISSION v. PROMEDICA HEALTH SYSTEM, INC. et al	dcdce	890	10/4/2010	1:2010-mc-00586		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?144354
Federal Trade Commission v. Response Makers, LLC	casdce	410	8/24/2010	3:2010-cv-01768		https://ecf.casd.uscourts.gov/cgi-bin/iquerymenu.pl?331694
FEDERAL TRADE COMMISSION v. CHURCH & DWIGHT CO., INC.	dcdce	890	2/26/2010	1:2010-mc-00149		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?140886
Federal Trade Commission v. ProMedica Health System, Inc.	ohndce	890	10/13/2010	3:2010-cv-02340		https://ecf.ohnd.uscourts.gov/cgi-bin/iquerymenu.pl?169530
Federal Trade Commission v. Star Pipe Products Ltd	txsdce		9/13/2011	4:2011-mc-00399		https://ecf.txsd.uscourts.gov/cgi-bin/iquerymenu.pl?918240
FEDERAL TRADE COMMISSION v. IAB MARKETING ASSOCIATES LP et al	dcdce	890	10/12/2012	1:2012-mc-00540		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?156481
FEDERAL TRADE COMMISSION v. JOHNSON	dcdce	890	1/19/2012	1:2012-mc-00042		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?152351
Federal Trade Commission v. Chi	casdce	450	2/1/2013	3:2013-cv-00256		https://ecf.casd.uscourts.gov/cgi-bin/iquerymenu.pl?405927
Federal Trade Commission v. National Processing Co. et al	flsdce	890	9/24/2013	1:2013-mc-23437		https://ecf.flsd.uscourts.gov/cgi-bin/iquerymenu.pl?428534
FEDERAL TRADE COMMISSION v. MOBILEFUNSTER, INC.	dcdce	890	2/7/2014	1:2014-mc-00112		https://ecf.dcd.uscourts.gov/cgi-bin/iquerymenu.pl?164468
Federal Trade Commission v. Countrywide Periodicals, LLC	mtdce		5/20/2014	9:2014-mc-00002		https://ecf.mtd.uscourts.gov/cgi-bin/iquerymenu.pl?45522
Federal Trade Commission v. Reckitt Benckiser Pharmaceuticals, Inc.	vaedce		8/8/2014	3:2014-mc-00005		https://ecf.vaed.uscourts.gov/cgi-bin/iquerymenu.pl?307911