UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: OXYCONTIN ANTITRUST LITIGATION	04 Md. 1603 (SHS) ORDER
PURDUE PHARMA L.P., THE P.F. LABORATORIES, INC., PURDUE PHARMACEUTICALS L.P., RHODES TECHNOLOGIES, and GRÜNENTHAL GMBH, Plaintiffs, -against- AMNEAL PHARMACEUTICALS, LLC, Defendant.	This document relates to: 11 Civ. 8153 (SHS)
PURDUE PHARMA L.P., THE P.F. LABORATORIES, INC., PURDUE PHARMACEUTICALS L.P., and RHODES TECHNOLOGIES, Plaintiffs, -against- MYLAN PHARMACEUTICALS INC. and MYLAN INC., Defendants.	12 Civ. 2959 (SHS)
PURDUE PHARMA L.P., THE P.F. LABORATORIES, INC., PURDUE PHARMACEUTICALS L.P., and RHODES TECHNOLOGIES, Plaintiffs, -against- EPIC PHARMA, LLC, Defendant.	13 Civ. 683 (SHS)

SIDNEY H. STEIN, U.S. District Judge.

In the above-captioned actions, plaintiffs claim that defendants have infringed a variety of patents. In *Purdue Pharma L.P. et al. v. Amneal Pharms., LLC*, Case No. 11 Civ. 8153, plaintiffs allege infringement of four patents: U.S. Patent No. 7,674,799; U.S. Patent No. 7,647,800; and U.S. Patent No. 7,683,072 (collectively, "the Low-ABUK Patents"); as well as U.S. Patent No. 7,776,314 ("the '314 Patent"). (*See* Compl. ¶ 23.) In *Purdue Pharma L.P. et al. v. Mylan Pharms. Inc. et al.*, Case No. 12 Civ. 2959, plaintiffs allege infringement of the three Low-ABUK Patents. (*See* Compl. ¶ 23.) In *Purdue Pharma L.P. et al. v. Epic Pharma, LLC*, Case No. 13 Civ. 683, plaintiffs again allege infringement of the three Low-ABUK Patents. (*See* Compl. ¶ 19.)

On January 14, 2014, this Court issued findings of fact and conclusions of law in *Purdue Pharma L.P. et al. v. Teva Pharms., USA, Inc.*, Case Nos. 11 Civ. 2037 and 12 Civ. 5083. (*See* Case No. 04 Md. 1603, Dkt. No. 634.) The Court held, inter alia, that the Low-ABUK Patents and the '314 Patent are invalid. On the same day, the Court ordered plaintiffs to show cause "why they are not collaterally estopped from asserting the Low-ABUK Patents and why the Court should not dismiss all claims in these litigations that rely on the Low-ABUK Patents." (Case No. 04 Md. 1603, Dkt. No. 635.)

Plaintiffs responded in a submission dated January 24 that although they intend to appeal the *Teva* decision, they "agree[] that collateral estoppel based on the *Teva* decision precludes Plaintiffs' claims for relief" in the three-above captioned actions. (*See* Case No. 04 Md. 1603, Dkt. No. 638 at 1.)

Although the order to show cause referred only to the Low-ABUK Patents, plaintiffs recognize that collateral estoppel applies with equal force to the '314 Patent. (*See id.* (conceding that all claims for relief in "the 2011 *Amneal* action"—which asserts both the Low-ABUK Patents and the '314 Patent—are precluded).) Plaintiffs are correct. With respect to the '314 Patent, the Court decided the *Teva* actions in the defendant's favor on alternative grounds: (1) that the defendant did not infringe the '314 Patent and (2) that, in any event, the '314 Patent is invalid. (*See* Case No. 04 Md. 1603, Dkt. No. 634, at 98, 106.) "The general rule in [the Second] Circuit is that 'if a court decides a case on two grounds, each is good estoppel.'" *Gelb v. Royal Globe Ins. Co.*, 798 F.2d 38, 45 (2d Cir. 1986) (quoting *Irving Nat'l*

Bank v. Law, 10 F.2d 721, 724 (2d Cir. 1926)); *see Purdy v. Zeldes*, 337 F.3d 253, 258 n.6 (2d Cir. 2003).[1]

Because the Court found in *Purdue Pharma L.P. et al. v. Teva Pharms., USA, Inc.*, Case Nos. 11 Civ. 2037 and 12 Civ. 5083, that the Low-ABUK Patents and the '314 Patent are invalid (*see* Case No. 04 Md. 1603, Dkt. No. 634), plaintiffs are precluded from arguing that those patents are valid in the above-captioned actions. The Court therefore directs that the above-captioned actions be dismissed.

Dated: New York, New York
January 29, 2014

SO ORDERED:

Sidney H. Stein, U.S.D.J.

[1] The above-captioned actions recite patent claims within the exclusive appellate jurisdiction of the U.S. Court of Appeals for the Federal Circuit. However, "the application of general collateral estoppel principles . . . is not a matter within the exclusive jurisdiction of [that] court." *Pharmacia & Upjohn v. Mylan Pharms.*, 170 F.3d 1373, 1381 (Fed. Cir. 1999). Rather, the applicable law is "the law of the circuit in which the district court [] sits." *Id.*