

NY Judge Signs Off On J&J Counterfeit Meds Injunction

By Adam Lidgett

Law360 (November 8, 2022, 4:20 PM EST) -- A New York federal judge has signed off on an agreement to block a pharmaceutical wholesaler from using certain trademarks belonging to Johnson & Johnson unit Janssen, including ones relating to a series of HIV medications.

U.S. District Judge Brian Mark Cogan on Friday entered a preliminary injunction order against Scripts Wholesale Inc. and its principal Steven Diamantstein, barring those parties from using any marks relating to Janssen or a number of medications like Symtuza, Prezcobix and other products.



Geoffrey Potter

The judge also barred Scripts and Diamantstein from "falsely representing the defendants as being connected with plaintiffs or sponsored by or associated with plaintiffs or engaging in any act which is likely to cause the trade, retailers and/or members of the purchasing public to believe that any or all of the defendants are associated with plaintiffs."

In addition, Scripts and Diamantstein were banned from "intentionally or unintentionally using any reproduction, counterfeit, copy, or colorable imitation of any of the registered marks or any trade dress or slogans associated therewith in connection with the publicity, promotion, sale, or advertising of any Janssen product or associated trade dress or slogans thereof," among other things, according to the judge.

Scripts, Diamantstein and Janssen Sciences Ireland stipulated the preliminary injunction in the case, where Janssen said it received complaints from patients who said their bottles of Symtuza HIV medication contained the wrong pills. The company said it found the bottles bore indications of counterfeiting, including fake labels and falsified instructions.

J&J said the counterfeit drugs can be traced to various wholesalers like Scripts Wholesale.

J&J said several groundbreaking Janssen HIV treatments are at the center of the counterfeiting, including Prezista, which contains the protease inhibitor darunavir; Prezcobix, a combination of darunavir and a booster inhibitor; Symtuza, which contains the boosted combination and two other drugs; Endurant and Intelence.

In November 2020, Janssen received a complaint from a New York pharmacy that a bottle labeled and

sold as Symtuza actually contained only Prezcobix tablets, the suit states. When the pharmacy sent the bottle to Janssen, the company said it confirmed the pharmacist's suspicions.

Representatives for J&J, Scripts and Diamantstein did not immediately respond to requests for comment.

J&J and Janssen are represented by Geoffrey Potter and Aron Fischer of Patterson Belknap Webb & Tyler LLP.

Scripts and Diamantstein are represented by Richard R. Schurin and Steven Stern of Stern & Schurin LLP.

The case is Janssen Sciences Ireland Unlimited Co. et al. v. Safe Chain Solutions LLC et al., case number 1:22-cv-01983, in the U.S. District Court for the Eastern District of New York.

--Additional reporting by Lauren Berg. Editing by JoVona Taylor.