

ORAL ORDER: Having reviewed Plaintiffs' Motion to Stay the Litigation and Toll the 30-Month Stay (D.I. 56) and Defendants' Motion to Stay Litigation (D.I. 113) and the submissions filed in connection therewith (D.I. 57; D.I. 64; D.I. 67; D.I. 112; D.I. 114; D.I. 115; D.I. 130; D.I. 131; D.I. 134), the Court GRANTS-IN-PART and DENIES-IN-PART Plaintiffs' motion and GRANTS Defendants' motion. The parties agree that the Court should stay the litigation regardless of whether the Court also grants Plaintiffs' request to extend the statutory 30-month stay under 21 U.S.C. § 355(j)(5)(B)(iii). Accordingly, the action is hereby STAYED. Any party may move to lift the stay. Notwithstanding the stay, and unless otherwise agreed to by the parties, Defendants shall produce to counsel for Plaintiffs correspondence between Defendants and the FDA concerning Defendants' ANDA within 14 days of sending or receiving such correspondence. In addition, the parties shall file a joint status report on or before the earliest of (a) 120 days from this Order; (b) 14 days from the date the FDA takes any action upon the Proposal to Withdraw Marketing Approval of Plaintiffs' NDA; or (c) 14 days from the date the FDA takes any action on Defendants' ANDA or Defendants withdraw their ANDA. Plaintiffs' request to extend the statutory 30-month stay is denied. The Court may extend the 30-month stay if the ANDA filer "fail[s] to reasonably cooperate in expediting the action." *Eli Lilly & Co. v. Teva Pharms. USA, Inc.*, 557 F.3d 1346, 1350 (Fed. Cir. 2009). The record before the Court does not reflect that Defendants have engaged in "uncooperative discovery practices." *Id.* Although several discovery disputes have been raised with the Court in recent months, the record does not indicate that Defendants were taking frivolous positions or otherwise engaging in the kind of dilatory tactics that might warrant an extension. See *In re Brimonidine Pat. Litig.*, No. 07-MD-1866 GMS, 2008 WL 4809037, at *3 (D. Del. Nov. 3, 2008). Any request to modify the terms of the stay should be raised in accordance with Judge Hall's discovery dispute procedures. ORDERED by Judge Jennifer L. Hall on 4/14/2022. (ceg) (Entered: 04/14/2022)

As of April 15, 2022, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

Covis Pharma GmbH et al v. Eugia Pharma Specialties Ltd. et al
1-21-cv-00003 (DDE), 4/14/2022, docket entry 136