

TEXT ORDER. This matter comes before the Court upon the two letters submitted by the parties [Docket Entries 235 and 238]. In its letter, Teva has offered a Stipulation that it agrees will govern the outcome of the newly filed Civil Action, 23 1505 and therefore render any additional discovery unnecessary and trial may proceed on September 25, 2023. Specifically, Teva agrees in the proposed Stipulation that because the patents in each case are closely related, Teva has offered to stipulate that the outcome of the 18-3632 Action will govern the outcome of the recently filed action, 23 1505. Corcept has declined to enter the Stipulation, contending that collateral estoppel will not apply because there will be differences in the relevant evidence and infringement analyses. This Court finds that Corcept's decision to belatedly file Civil Action number 231505 was of its own making and at its own peril. Although Corcept was willing to "resolve this matter entirely while conserving party and additional resources" at the time summary judgment motions were pending, it switched course once it became apparent that this Court was not as "confident in the merits" [Docket Entry 238-3]. A party that makes a tactical decision to delay proceedings must deal with the consequences. This Court cannot function properly if all parties before it were permitted to litigate their claims in piecemeal fashion, as has happened here. (The Court rejects Corcept's attempt to pass the blame onto Teva because it failed to file a declaratory judgment action.). Accordingly, trial will commence as to both actions on September 25, 2023. The parties shall meet and confer as to what additional discovery is needed to have the newly filed Civil Action No. 23 1505 ready for trial. The parties shall then prepare an order for Honorable Leda Dunn Wettre's approval. The Court anticipates that discovery will be limited. The Court further anticipates that, to the extent appropriate, it will issue an order requiring attorney's fees associated with this discovery, as approved by Judge Wettre, to be borne by Corcept. Of course, if the Court determines that both sides have engaged in unnecessary litigation tactics, the Court will revisit the issue of fees. So Ordered by Chief Judge Renee Marie Bumb on 04/24/23. (Bumb, Renee) (Entered: 04/24/2023)

As of April 25, 2023, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

*Corcept Therapeutics, Inc. v. Teva Pharmaceuticals USA, Inc. et al*  
1-18-cv-03632 (DNJ), 4/24/2023, docket entry 239