

Federal Court



Cour fédérale

**Date: 20150715**

**Docket: T-259-14**

**Toronto, Ontario, July 15, 2015**

**PRESENT: The Honourable Mr. Justice Hughes**

**BETWEEN:**

**SHIRE CANADA INC.**

**Applicant**

**and**

**PHARMASCIENCE INC. AND THE  
MINISTER OF HEALTH**

**Respondents**

**and**

**SHIRE LLC**

**Respondent Patentee**

**CONFIDENTIALITY ORDER**

**UPON** the motion of the Respondent Pharmascience Inc. (“Pharmascience”) for a confidentiality order pursuant to Rule 151 of the *Federal Courts Rules* in respect of confidential information and documents provided by third-party data provider IMS Health (“IMS”) which forms part of the Pharmascience evidence in this matter.

**CONSIDERING** that this Court issued a Protective Order dated February 13, 2014 in Court File T-259-14 (the “Protective Order”) to provide the protection and maintenance of confidentiality of certain documents, information and transcripts to be produced by the parties during the course of this proceeding.

**CONSIDERING** that Pharmascience has asserted that the confidential information and documents of IMS found in the IMS Report containing sales data for Attention Deficit Hyperactivity Disorder (“ADHD”) drug products in the United States attached as Exhibit “F” to the Affidavit of Dr. Levinson sworn January 27, 2015 (the “IMS Data”) and any document or transcript referring to the IMS Data, meet the criteria for the protection of a confidentiality order under Rule 151, and that the information disclosed in these documents also merits protection, and the Applicants and Respondents have consented to this order.

**CONSIDERING** that the affidavits filed by IMS and Pharmascience in support of Pharmascience’s motion and appeal are sufficient for a Court to establish if these criteria apply in respect of the IMS Data, and describe same with sufficient precision.

**IT IS HEREBY ORDERED THAT:**

1. The “Confidential Information of Pharmascience” as referred to in paragraphs 1(e)(ii) of the Protective Order and which Pharmascience has designated as confidential pursuant to paragraph 2 of the Protective Order shall include the IMS Data.
2. Whenever a party seeks to file in this Court documents or portions thereof, including, but not limited to affidavits, exhibits, transcripts or motion materials which contain or discuss confidential information, as defined in paragraph 1 of this Order (“Confidential Information of Pharmascience”), in a manner that would reveal its content, the

Confidential Information of Pharmascience shall be segregated from other information and documentation being submitted for filing and shall be submitted to the Court in sealed envelopes identifying this proceeding and permanently marked with the following legend:

**CONFIDENTIAL INFORMATION OF PHARMASCIENCE:  
PURSUANT TO THE CONFIDENTIALITY ORDER IN  
FEDERAL COURT FILE NO. T-259-14 DATED JULY 14,  
2015. THIS ENVELOPE SHALL REMAIN SEALED IN THE  
COURT FILES AND BE TREATED IN ACCORDANCE  
WITH RULE 152.**

3. Where it is not reasonably practical to segregate Confidential Information of Pharmascience from non-confidential information, the parties may file an entire document or volume thereof in a sealed envelope, provided that a public version of the document or volume, from which Confidential Information of Pharmascience has been redacted or removed, is also filed on the public record.
4. The terms and conditions of use of Confidential Information of Pharmascience and the maintenance of the confidentiality thereof during any hearing of this proceeding shall be matters in the discretion of the Court seized of this matter. In any event, the terms of this Order do not apply to the hearing of this application on its merits or to the manner in which the final judgment and reasons for judgment are to be written and treated, unless specifically ordered by the applications judge.

"Roger T. Hughes"

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Judge