

Jazz Patent Suit Over Xyrem Survives Dismissal In NJ

By **Adam Lidgett**

Law360 (July 8, 2026, 9:23 PM EDT) -- A New Jersey federal judge has refused to let generic-drug company Tris Pharma Inc. escape a suit claiming its attempt to sell a competing version of Jazz Pharmaceuticals' narcolepsy drug Xyrem infringes a series of patents.

U.S. District Judge Stanley R. Chesler on Tuesday denied Tris Pharma's motion to dismiss the suit, which sought to block the company from selling its proposed drug until after seven patents on the brand-name Xyrem expire.

Tris Pharma tried to argue it had made proposed changes to its new drug application so that its proposed product wouldn't be covered by the patents, but Judge Chesler said a defendant couldn't win dismissal "by arguing that the facts alleged in the complaint are no longer true." The court has to take as true the allegations in the complaint for the purposes of a dismissal bid, Judge Chesler said.

"The court finds no valid legal basis to consider the proposed amended NDA, in whole or in part, as a document incorporated into the complaint by reference," the judge said.

Jazz Pharmaceuticals Ireland Ltd. filed its lawsuit in February, targeting a new drug application that Tris Pharma filed with the U.S. Food and Drug Administration seeking approval to market its own version of Xyrem, which is sodium oxybate and used to treat narcolepsy. The patents are set to expire in 2033, according to federal patent records.

Tris Pharma said it proposed that changes be made to the application so that it would "exclude the uses covered by the patents," according to Tuesday's decision.

Jazz responded by saying Tris Pharma's argument was based on a document extrinsic to the complaint, so it shouldn't be taken into account at this stage of the case.

Judge Chesler sided with Jazz's argument, saying: "The court does not find facts, but instead takes the non-conclusory allegations in the complaint as true.

"Tris has given this court no controlling authority for the proposition that this bedrock principle does not apply here."

Counsel for the parties did not immediately respond to requests for comment Wednesday.

The patents-in-suit are U.S. Patent Nos. 8,772,306; 9,050,302; 9,486,426; 10,213,400; 10,864,181; 11,253,494; and 11,986,446.

Jazz Pharmaceuticals is represented by Charles M. Lizza, Sarah A. Sullivan and Alexander L. Callo of Saul Ewing LLP and F. Dominic Cerrito, Eric C. Stops, Evangeline Shih, Andrew S. Chalson, Gabriel P. Brier, Frank C. Calvosa, Marta A. Godecki, Abigail DeMasi and Lourania M. Oliver of Quinn Emanuel Urquhart & Sullivan LLP.

Tris Pharma is represented by Charles H. Chevalier and Magnolia S. Joodi of FBT Gibbons LLP and Lisa B. Pensabene, James Y. Li, Jon T. Clark and Yune-Ting T. Chiang of O'Melveny & Myers LLP.

The case is Jazz Pharmaceuticals Ireland Ltd. v. Tris Pharma Inc., case number 2:26-cv-01739, in the U.S. District Court for the District of New Jersey.

--Editing by Nick Siwek.