IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JUDGE DANIEL D. DOMENICO

CIVIL ACTION NO. 1:22-cv-03181-DDD-SBP

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

REVEN HOLDINGS, INC. d/b/a Reven Pharmaceuticals;
REVEN PHARMACEUTICALS, INC.;
BRIAN D. DENOMME;
PETER B. LANGE; and
MICHAEL A. VOLK,

Defendants, and

REVEN, LLC;
REVEN IP HOLDCO, LLC;
REVEN ONCOLOGY LICENSING, LLC; and
HEALTH ANALYTICS AND RESEARCH SERVICES, LLC,

Relief Defendants.

DEFENDANTS' AND RELIEF DEFENDANTS' OPPOSED MOTION TO SUPPLEMENT OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

Defendants Reven Holdings, Inc. d/b/a/ Reven Pharmaceuticals, Reven Pharmaceuticals, Inc., Brian D. Denomme, Peter B. Lange, and Michael A. Volk, and Relief Defendants Reven, LLC, Reven IP Holdco, LLC, Reven Oncology Licensing, LLC, and Health Analytics and Research Services, LLC (collectively, "Defendants") file this Opposed Motion to Supplement their Opposition to Plaintiff's Motion for Preliminary Injunction, ECF No. 96, and respectfully state the following:

1. Defendants seek the Court's leave to supplement their prior response brief with a single declaration from Michael A. Volk showing that the asset freeze in this matter is causing ongoing harm to Defendants and their shareholders.

2. Plaintiff United States Securities and Exchange Commission ("SEC") filed its Complaint, applied for a temporary restraining order, and moved for a preliminary injunction (the "PI Motion") on December 9, 2022. ECF Nos. 1, 3. This Court granted the SEC's *ex parte* motion for a Temporary Restraining Order and Asset Freeze on January 3, 2023. ECF No. 28. In the resulting order (the "TRO"), this Court stated that "[a]ll assets, funds, or other property of any kind, including without limitation intellectual property, including patents or trademarks . . . are frozen and will not be sold, transferred, or encumbered in any way[.]" *Id.* at 15-16. Further, "[a]ny bank, financial, brokerage institution, corporation, licensor/licensee, or other person or entity holding any funds . . . in the name of, for the benefit of, or under the control of [Defendants] . . . must hold and retain within their control and prohibit the withdrawal, removal, transfer or other disposal of any such funds[.]" *Id.* at 16-17. The Defendants' assets have accordingly remained frozen for the past ten months.

3. The parties subsequently extended the response deadline for the PI Motion to permit settlement discussions and expedited discovery. Defendants then filed their Opposition to Plaintiff's Motion for Preliminary Injunction ("Opposition") on June 12, 2023. ECF No. 96.

4. Among many other things, the Opposition explained how the asset freeze had harmed and was continuing to harm the Defendants and their

shareholders, including by causing the Defendants to lose their Phase II trial data and by potentially putting the Defendants' intellectual property at risk. *Id.* at 42–43; *see also* ECF No. 96-2, Decl. of Michael A. Volk ¶¶ 26–29.

5. Since the Defendants filed their Opposition, the impact of the asset freeze has only gotten worse. Indeed, the potential risks to Defendants' intellectual property explained in the Opposition have begun to transpire. Accordingly, Defendants seek leave to submit a supplemental declaration from Mr. Volk (the "Supplemental Volk Declaration") explaining these facts.

6. A copy of the proposed Supplemental Volk Declaration is attached to this motion as Exhibit 1. As the Supplemental Volk Declaration explains, Defendants' valuable intellectual property requires ongoing payment of fees for its maintenance and prosecution, both in the United States and abroad. *See* Exhibit 1 ¶¶ 6-11. The TRO is preventing Defendants from raising funds and paying necessary expenses to maintain and prosecute its patents. *See id.* ¶¶ 13-14.

7. As explained above, the Supplemental Volk Declaration provides additional details about why the relief requested in the PI Motion should not be granted. As a result, the Supplemental Volk Declaration is relevant to this Court's consideration of the facts and law. *See Maehr v. IRS*, No. 19-cv-03464, 2021 WL 2636431, at *1 (D. Colo. May 24, 2021) (granting motion to supplement with supplemental declaration that provides additional relevant facts); *cf. Pinson v. Kasdon*, No. 13-cv-01384, 2014 WL 503648, at *1 (D. Colo. Feb. 7, 2014) (denying

motion to supplement with declaration "not relevant to the motion for injunctive relief.").

8. Granting this motion and allowing Defendants to supplement their Opposition would cause no prejudice to Plaintiff. In their Opposition, Defendants already noted that this Court's Asset Freeze "threaten[s] Reven's ability to maintain its existing intellectual property and . . . wast[es] valuable patent life[.]" ECF No. 96 at 4. Thus, Plaintiff already had notice of this argument and had an opportunity to respond to it in Plaintiff's Reply. The proposed supplemental declaration merely provides further information about this issue that the Opposition already raised.

9. Pursuant to the requirements of local rule D.C.Colo.L.Civ. 7.1(A), counsel for Defendants conferred with counsel for Plaintiff via email. Plaintiff's counsel indicated they were opposed to the relief requested on the grounds that briefing has already been completed. However, as explained above, Defendants do not believe this brief supplemental declaration will prejudice Plaintiff.

For the reasons set forth herein, Defendants respectfully request that the Court grant their request to supplement their Opposition to Plaintiff's Motion for Preliminary Injunction, ECF No. 96, with the Supplemental Volk Declaration.

Dated: November 10, 2023

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that November 10, 2023, I electronically filed the foregoing **DEFENDANTS' AND RELIEF DEFENDANTS' OPPOSED MOTION TO SUPPLEMENT OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following email addresses:

- **Sharan Lieberman**
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s/ Katherine A. Preston