New Report on VIVUS' Qsymia Patents: An Intellectual Property House of Cards

Robert Diggs Deeper: A Comprehensive Analysis of Vivus' Market Exclusivity on Qsymia®

SAN FRANCISCO, USA, August 9, 2013 /EINPresswire.com/ -- RFD IP Business Services ("RFD") yesterday released a hard-hitting report (http://vivuspatent.wordpress.com) analyzing the gathering storm of patent challenges to VIVUS, Inc. (NASDAQ: VVUS) and its approved drug, Qsymia® (fixed dose combinations of phentermine and topiramate).

> "I felt compelled to write this report because I have never seen a major pharmaceutical product with so many intellectual property vulnerabilities, any one of which could jeopardize Vivus' exclusivity."
>
> *Robert F. Diggs*

The report, which extensively references and links original source materials, details how RFD has filed its own prior art challenge against a pending Qsymia patent in Europe (European Patent Application No: 07011472.3). It also contains a public call to arms for Harvard Medical School and Endo Health Solutions, two parties each of which may be holding a potentially superior ownership claim to Vivus' on the only issued US patents covering Qsymia.

What is new in the Report?

* Written admissions by Vivus' outside counsel - the only issued US patents to Qsymia fail to teach topiramate dosages below 50 mg and arguably below 200 mg, leaving vulnerable at least 2 and perhaps all 4 of Vivus' marketed formulations of Qsymia

* Context for the Qsymia business case - an analysis of the relatively meager commercial success usually experienced by pharmaceutical products that merely recombine or reformulate old drugs; these FDA approvals under section 505(b)2 don't usually result in block busters nor do they tend to launch successful companies or lucrative partnership arrangements

* Potential Antitrust Risk - Exposes the possibility of Vivus liability should the company attempt to enforce Qsymia patents in cases where the courts find that inequitable conduct has occurred during patent prosecution and Vivus' patents were thereby fraudulently listed in the FDA's Orange Book

* Generic Competition - Detailed analysis of potential strategies and time lines; the case for

Vivus' exclusivity on Qsymia ending in 2 to 3 years

* Valuation of Vivus Stock – Detailed financial analysis of the value of Vivus shares assuming a 2 to 3 year window of exclusivity on Qsymia

The report also analyzes the challenges that generic pharmaceutical companies are likely to bring against Vivus' Qsymia patents based on extensive prior art, likely inequitable conduct before the USPTO, the potential for ownership disputes over the Qsymia patents with Harvard Medical School, Endo Health Solutions, and/or their licensees, and the combined use of existing generic products containing solely phentermine or topiramate.

About RFD IP Business Services

RFD provides intellectual property-related business diligence services for the pharmaceutical and biotech industries.

RFD's earlier report on Vivus IP from July 19, 2012 was excerpted and promoted by Citron research here: Why FDA Approval Is Not the Rx. One day later, RFD published its full report, which can be viewed here. On July 19, 2012 Vivus shares opened at $29.12 and fell to a relative low of $21.70 before closing at $24.15 on July 20, 2012.

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