

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

 TAKEDA PHARMACEUTICALS,)
 U.S.A., INC.,)
)
 Plaintiff,)
)
 v.)
)
 SYLVIA MATHEWS BURWELL, in)
 her official capacity as SECRETARY,)
 UNITED STATES DEPARTMENT OF)
 HEALTH AND HUMAN SERVICES, *et*)
al.,)
)
 Defendants,)
)
 and)
)
 HIKMA PHARMACEUTICALS PLC, *et*)
al.,)
)
 Intervenor-Defendants.)

Civil Action No. 14-cv-1668 (KBJ)

AND

 ELLIOTT ASSOCIATES, L.P., *et al.*,)
)
 Plaintiffs,)
)
 v.)
)
 SYLVIA MATHEWS BURWELL, in)
 her official capacity as SECRETARY,)
 UNITED STATES DEPARTMENT OF)
 HEALTH AND HUMAN SERVICES, *et*)
al.,)
)
 Defendants,)
)
 and)
)
 HIKMA PHARMACEUTICALS PLC, *et*)
al.,)
)
 Intervenor-Defendants.)

Civil Action No. 14-cv-1850 (KBJ)

ORDER

This Court has fully considered the myriad motions, memoranda, and other supporting materials that the parties in *Takeda Pharmaceuticals U.S.A., Inc. v. Burwell*, No. 14-1668-KBJ (D.D.C. filed Oct. 6, 2014), and *Elliott Associates v. Burwell*, No. 14-1850-KBJ (D.D.C. filed Nov. 4, 2014), have filed. This Court determined that these two cases should be considered in tandem on November 18, 2014, with the consent of the parties, because these two actions have the same underlying factual basis and request the same remedy. (*See* Minute Entry dated Nov. 18, 2014, *Elliott v. Burwell*, No. 14-1850-KBJ.) Prior to its decision to consider these cases together, this Court had already converted Plaintiff Takeda's Motion for a Preliminary Injunction ("PI motion") into a Motion for Summary Judgment by consolidating that PI motion with the merits of Takeda's case. (*See* Order, *Takeda Pharms. U.S.A., Inc. v. Burwell*, No. 14-1668-KBJ, ECF No. 40.) The Court had also permitted Hikma Pharmaceuticals PLC and West-Ward Pharmaceuticals Corp. (collectively, "West-Ward") to intervene in these matters. (*See* Minute Entry dated Nov. 21, 2014, *Elliott Assocs. v. Burwell*, No. 14-1850-KBJ.) Consequently, at its motions hearing on November 19, 2014, this Court heard oral argument from all parties regarding the underlying merits of all of the Administrative Procedure Act claims that are at issue in these cases. (*See* Minute Entry dated Nov. 19, 2014, *Takeda Pharms. U.S.A., Inc. v. Burwell*, No. 14-1668-KBJ.)

For the reasons stated in the forthcoming Memorandum Opinion, it is hereby

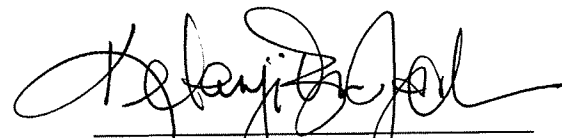
ORDERED that (1) Takeda's [9] Motion for Summary Judgment (as the PI motion was construed when that motion was consolidated with the merits) is **DENIED**; (2) Elliott's [14] Motion for Summary Judgment in *Elliott Associates v. Burwell*, No.

14-1850-KBJ, is **DENIED**; and (3) the pending cross-motions for summary judgment (West-Ward's [60] Cross-Motion for Summary Judgment, and Burwell and Hamburg's [62] Cross-Motion for Summary Judgment) in *Elliott Associates v. Burwell*, No. 14-1850-KBJ, are **GRANTED**. It is

FURTHER ORDERED that *Elliott Associates v. Burwell*, No. 14-1850-KBJ, is **DISMISSED**. It is

FURTHER ORDERED that, on or before **January 23, 2015**, Takeda shall **SHOW CAUSE** as to why this Court should not dismiss *Takeda Pharmaceuticals U.S.A., Inc. v. Burwell*, No. 14-1668, *sua sponte*. See Fed. R. Civ. P. 56(f) (providing that after giving notice and a reasonable time to respond, the court may grant summary judgment for the nonmoving party).

DATE: January 9, 2015


KETANJI BROWN JACKSON
United States District Judge