

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: DIGITEK PRODUCTS

LIABILITY LITIGATION

MDL No. 1968

THIS DOCUMENT APPLIES TO ALL CASES

**PRETRIAL ORDER #18
(Preservation Order – Non-Digitek® Information)**

Based upon the stipulation and agreement of the parties, it is hereby **ORDERED** as follows:

1. The obligations of the parties to preserve Electronically Stored Information (“ESI”), documents, and/or tangible things relating to Digitek® are set forth in Pretrial Order #13: Preservation Order – Digitek® Information (“PTO #13”), entered by this Court on February 11, 2009. (CM/ECF Docket 75.) The preservation obligations arising under this Order do not abrogate or reduce any of the preservation obligations set forth in PTO #13.

Defendants’ Obligations – Actavis Defendants

2. As concerns ESI, documents, and/or tangible things that relate to products other than Digitek®, the Court finds that the preservation activities set forth below satisfy the preservation obligations of the Defendants in this matter who are related to or affiliated with any of the Actavis entities (collectively “Actavis Defendants”) and orders the Actavis Defendants to take the following measures to preserve information:

a. Preserve any and all hard copy documents created between January 1, 1998 and July 31, 2008 that relate to or reflect the manufacture of any drug manufactured by Actavis Totowa at the Little Falls facility;

b. Preserve any and all copies of hard drives and other non-Digitek® ESI that previously was collected in preparation for this and other litigation related to Actavis Totowa's Little Falls facility and that is currently being preserved by Defendants' counsel.

Defendants' Obligations – Mylan Defendants

3. The Defendants in this matter who are related to or affiliated with any of the Mylan entities, including but not limited to UDL Labs, are not required, in connection with this matter, to preserve any information relating to any drug other than Digitek®.

No Waiver of Challenge to Relevance and Production of Non-Digitek® Information

4. Nothing in this Preservation Order in any way alters Defendants' rights to object to or contest any request to produce any information related to any product other than Digitek®, whether the non-Digitek® information is contained in hard-copy documents or any other form.

IT IS SO ORDERED.

The court **DIRECTS** the Clerk to file a copy of this order in 2-08-md-1968 which shall apply to each member Digitek-related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2-09-cv-0243. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial

orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsc.uscourts.gov.

ENTER: March 20, 2009



Joseph R. Goodwin
Joseph R. Goodwin, Chief Judge

STIPULATED AND AGREED TO BY:

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