

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----  
ROCHE DIABETES CARE, INC., ROCHE :  
DIABETES CARE GmbH, and HOFFMANN-LA :  
ROCHE, INC., :

Case No. 24-CV-03625 (DG) (RML)

Plaintiffs, :

**FILED *EX PARTE* AND UNDER SEAL**

v. :

JMD ENTERPRISES d/b/a DKY STORE USA, :  
JMD INTERNATIONAL, DILEEP KUMAR :  
YADAV, ABHISHEK JAIN, MEDICAL :  
HUB\_USA STORE, RATNAKAR SHARMA, :  
AUTHENTIC INDIAN STORE, and ATIKUR :  
RAHMAN, :

Defendants. :

-----  
**[PROPOSED] EXPEDITED PARTY DISCOVERY ORDER**

PLEASE TAKE NOTICE that upon the Complaint of Roche Diabetes Care, Inc., Roche Diabetes Care GmbH, and Hoffmann-La Roche, Inc. (together, “Roche” or “Plaintiffs”), the memorandum of law submitted in support of this Order, and accompanying declarations and the exhibits annexed thereto, it is hereby:

ORDERED that Plaintiffs may immediately serve discovery requests on each Defendant and subpoenas on any non-party believed to have information relevant to this action; and it is further

ORDERED that (a) any Defendant to this action shall respond to requests to produce documents and interrogatories within three calendar days after service of such requests by production of responsive documents or interrogatories; (b) any third party shall respond to

subpoenas for documents within three calendar days after service; and (c) Plaintiffs may take the deposition of any Defendant or a non-party witness, upon notice in writing to every other party of at least three calendar days; and it is further

ORDERED, that expedited discovery shall apply to Defendants existing as of the date of this Order, and to all future Defendants to this action; and it is further

ORDERED, that all discovery of Defendants and non-parties shall proceed on an expedited basis without the need to comply with the time limits of the Federal Rules of Civil Procedure or the notice requirements of Rule 45(a)(4); and it is further

ORDERED, that without limiting the foregoing, Amazon.com, Inc., Amazon LLC, and/or any of their parents, subsidiaries, or affiliates (together, “Amazon”) shall provide the Plaintiffs, within three calendar days of service of this Order:

- i) Documents sufficient to identify all known contact information, present and historical, including without limitation phone numbers, addresses, and email addresses for both companies and their principals for each of the following individuals, entities, and/or Amazon storefronts: JMD Enterprises, DKY Store USA, JMD International, Medical Hub\_Store USA, Authentic Indian Store, Dileep Kumar Yadav, Abhishek Jain, Ratnakar Sharma, and Atikur Rahman (collectively, the “Storefront Owners”)
- ii) All documents and information concerning the formation, creation, and/or registration of Amazon storefronts in the name of or connected to the Storefront Owners.

- iii) Documents sufficient to show all payments by Amazon to each of the Storefront Owners, including all bank account information associated with each such payment;
- iv) Documents sufficient to show the current balance in each Storefront Owner's account, and/or amount of funds owed by Amazon to each Storefront Owner and/or the amount of funds held by Amazon by, for the benefit of, or in the name of each Storefront Owner.
- v) Documents sufficient to show, for the past six years, all sales of any actual or purported Accu-Chek brand product by each Storefront Owner to a U.S. customer, including the seller, item, date, price, shipping information, and purchaser.
- vi) Documents sufficient to show all available contact information for each U.S. customer that purchased any actual or purported Accu-Chek brand product from each Storefront Owner for the past six years.
- vii) Documents sufficient to show the current inventory and location of all Accu-Chek brand products sold by or belonging to any of the Storefront Owners including any returned products.
- viii) All consumer communications with any of the Storefront Owners or with Amazon concerning any of the Storefront Owners.
- ix) All communications between Amazon and any of the Storefront Owners or any Government agency concerning any of the Storefront Owners.
- x) Documents sufficient to show each address from which any of the Storefront Owners delivered products to Amazon or to a customer.

- xi) Documents sufficient to show, for the past six years, all sales of any blood glucose test strip or lancet by each Storefront Owner, including the seller, item, date, and price.
- xii) Documents sufficient to show, for the past three years, all sales of actual or purported sales of Accu-Chek products to U.S. consumers from any Amazon third-party sellers and/or storefronts that Amazon knows or understands to be located in India; and it is further

ORDERED, that until further order of this Court, the following confidentiality provisions shall apply to documents and all other materials produced pursuant to this Expedited Discovery Order (the “Material”):

1. Roche shall not disclose any Material to any persons, except the following, who shall treat such information as confidential in accordance with the terms of this Order:

- (a) The Court and its officers, and any court reporters employed in this action;
- (b) lawyers, legal assistants, and support personnel at Roche’s outside counsel, and investigators and experts employed by Roche’s outside counsel;
- (c) Roche’s in-house attorneys, legal assistants, and support people that work with them with a need to know, including those who deal with brand protection and applicable regulatory agencies and;
- (d) Roche’s corporate security employees and vendors and those employees and vendors who support Roche’s anti-counterfeiting efforts;
- (e) Roche’s customer service professionals, including those that communicate with patients;
- (f) government agencies, including those responsible for law enforcement and pharmaceutical licensing, sales, and distribution; and

(g) fact witnesses or expert witnesses at trial or deposition.

2. The provisions noted above relating to the Material shall not apply to any

Material that:

(a) is, was, or becomes public knowledge, as long as it became so not in violation of this Order,

(b) is lawfully acquired by Roche from a person or entity, other than producing party, that has the right to possess and disclose such Material;

(c) was lawfully possessed by Roche prior to entry by the Court of this Order; or

(d) the producing party agrees in writing that the Material is not confidential.

3. Plaintiffs and their attorneys are hereby authorized to receive, subpoena, and transmit “protected health information” of third-parties and non-parties to parties, third-parties, and non-parties and their attorneys and representatives to the extent and subject to the conditions outlined herein.

4. For the purposes of this Expedited Discovery Order, “protected health information” shall have the same scope and definition as set forth in 45 C.F.R. §§ 160.103 and 164.501. Protected health information includes, but is not limited to, health information, including demographic information, relating to either (a) the past, present, or future physical or mental condition of an individual, (b) the provision of care to an individual, or (c) the payment for care provided to an individual, which identifies the individual or which reasonably could be expected to identify the individual.

5. All “covered entities” (as defined by 45 C.F.R. § 160.103) are hereby authorized to disclose protected health information to attorneys representing the Plaintiffs in the above-captioned litigation.

6. Plaintiffs their attorneys shall be permitted to use or disclose the protected health information only for purposes of prosecuting or defending this action including any appeals of this case. This includes, but is not necessarily limited to, disclosure to their attorneys, experts, consultants, court personnel, court reporters, copy services, trial consultants, and other entities or persons involved in the litigation process or informing patients that they may have purchased counterfeit or misbranded medical devices

7. Prior to disclosing protected health information to persons involved in this litigation, counsel shall inform each such person that the protected health information may not be used or disclosed for any purpose other than this litigation. Counsel shall take all other reasonable steps to ensure that persons receiving protected health information do not use or disclose such information for any purpose other than this litigation.

8. Within 45 days after the conclusion of the litigation including appeals, the Plaintiffs, their attorneys, and any person or entity in possession of protected health information received from counsel pursuant to paragraph 6 above, shall return the protected health information to the covered entity or destroy any and all copies of protected health information, except that counsel are not required to secure the return or destruction of protected health information submitted to the Court.

9. This Order does not control or limit the use of protected health information that comes into the possession of Plaintiffs or their attorneys from a source other than a “covered entity,” as that term is defined in 45 C.F.R § 160.103.

---

UNITED STATES DISTRICT JUDGE

Issued: May \_\_\_\_, 2024 at \_\_\_\_ o'clock \_\_.m.

SO ORDERED.

*/s/ Diane Gujarati* \_\_\_\_\_  
DIANE GUJARATI  
United States District Judge

Dated:    May       24, 20  24 8:45 p.m.  
Brooklyn, New York