

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**IN RE: OXYCONTIN ANTITRUST LITIGATION**

Purdue Pharma L.P., et al. v. Varam, Inc., et al., )  
E.D. Pennsylvania, C.A. No. 2:12-01898 )

MDL No. 1603

**TRANSFER ORDER**

**Before the Panel:** Pursuant to Rule 7.1, defendants Varam, Inc. and KVK-Tech, Inc., move to vacate our order conditionally transferring this action (*Varam II*) to MDL No. 1603. Plaintiffs Purdue Pharma L.P., the P.F. Laboratories, Inc., Purdue Pharmaceuticals L.P., and Rhodes Technologies (collectively Purdue) oppose the motion to vacate and favor transfer of the action.

After considering all argument of counsel, we find that this action involves common questions of fact with the actions previously transferred to MDL No. 1603, and that transfer will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. Moreover, transfer is appropriate for the reasons set out in our February 3, 2011 transfer order, in which we transferred a nearly identical 2010 action by Purdue against defendants (*Varam I*).

Defendants' opposition – to the extent it does not recycle arguments originally advanced in opposition to transfer of *Varam I* – consists of complaints that *Varam I* has not progressed at a satisfactory pace and that the litigation may not be resolved before expiration of the statutory 30-month stay of FDA approval of defendant Varam, Inc.'s Abbreviated New Drug Application that is the basis for Purdue's patent infringement claim. Based on the record before us, however, the parties have had ample opportunity to move *Varam I* forward, and whether this action is transferred will not affect the likelihood that the parties' dispute is resolved before the statutory stay expires. Accordingly, we are not persuaded that any delay in discovery in *Varam I* supports not transferring this action to the MDL. This is particularly so where a separate action, identical to *Varam II*, has been filed directly with the transferee court. Absent transfer of *Varam II*, two courts will be required to oversee pretrial proceedings between the same parties on the same patent issues for the same patents.

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IT IS THEREFORE ORDERED that pursuant to 28 U.S.C. § 1407, this action is transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Sidney H. Stein for coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in black ink, reading "John G. Heyburn II", is written above a horizontal line.

John G. Heyburn II  
Chairman

Kathryn H. Vratil  
Barbara S. Jones  
Marjorie O. Rendell

W. Royal Furgeson, Jr.  
Paul J. Barbadoro  
Charles R. Breyer