

TEXT ORDER: The Court has reviewed the parties' August 14, 2026 joint status report [D.E. 135]. It is apparent to the Court that the parties have not adequately meet and conferred to resolve the ESI search term issues. For example, Supernus and Appco accuse each other of failing to consider the adversary's proposal for resolving their search term disputes. Supernus protests that Appco refuses to run hit reports for the additional search terms that Supernus has proposed. And Appco contends that Supernus itself refuses to provide hit reports to allow Defendants to assess Supernus's burden claims. Appco also contends that Supernus refuses to explain why Appco's proposal--whereby Appco will accept vilo* if Supernus will withdraw the remaining disputed terms--is unacceptable. Appco also represents that Supernus did not respond to Appco's request for a meet and confer on August 13th.

The remaining defendants also represent that they continue to meet and confer with Supernus, and that judicial intervention is unnecessary and premature at this time. In fact, the status as to the meet-and-confer efforts between Supernus and the remaining defendants appears to be incomplete and, as to certain Defendants, at a standstill. For example, Aurobindo contends that Supernus has not responded to its August 4th communication, which agreed to include additional ESI custodians and alternative search terms. As regards Supernus and Apotex, it appears the meet-and-confer process concerning Supernus's addition search terms commenced only on August 11th, and Apotex awaits Supernus's response to its objections. As to Zenara and Creekwood, it appears that the meet-and-confer process is ongoing. Macleods, like Appco, reports that Supernus itself has refused to provide hit counts for disputed ESI terms, and Macleods continues to await Supernus's response to its August 11th objections to only five of the numerous search terms Supernus has proposed. MSN reports that it believed it had reached a resolution of most of the search-term disputes with Supernus at a July 6th meet and confer, but that Supernus "abandoned" those discussions and insisted on a global resolution. Zydsus represents that on August 11th, it agreed to certain additional search terms and responded to the proposed additional custodians. Zydsus also reports that "Supernus has been silent on Zydsus's ESI search terms."

The Court concludes that judicial intervention is premature at this time, and that the parties would best benefit from continuing to meet and confer concerning the ESI search terms and custodians. To assist the meet-and-confer process, the Court agrees that any party, including Supernus, that claims undue burden must provide objective, fact-specific reasoning to substantiate the claim. See, e.g., *MSP Recovery Claims Series LLC v. Celgene Corp.*, 2024 WL 1327990, at *5 n.3 (D.N.J. Mar. 28, 2024); *NE Technologies Inc. v. Evolving Sys. Inc.*, Civ. No. 06-6061, 2008 WL 4277668, at *5 (D.N.J. Sept. 5, 12, 2008). That may include hit reports, or other reasonable information as agreed by the parties. By August 28, 2026, the parties will file a joint status report concerning their progress in resolving these issues. All parties are advised that if the August 28th joint status report does not indicate substantial addition progress, all counsel will be required to appear in the jury conference room of the assigned Magistrate Judge to conduct an all-day meet-and-confer session.

As to Defendant Zenara's intention to amend its nonfringement contentions pursuant to L. Pat. R. 3.7(d), it appears that the parties' meet-and-confer efforts were unsuccessful. Accordingly, Zenara will file any such motion by August 28, 2026. Supernus shall respond by September 8, 2026. Zenara shall file any reply by September 14, 2026.

So Ordered by Magistrate Judge Michael A. Hammer on 8/17/2026. (Hammer, Michael)
(Entered: 08/17/2026)

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