

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

APOTEX INC.,
Plaintiff-Appellee,

v.

CEPHALON, INC.,
Defendant-Appellant,

AND

**BARR LABORATORIES, INC., MYLAN
LABORATORIES, INC., TEVA PHARMACEUTICAL
INDUSTRIES, LTD., TEVA PHARMACEUTICALS
USA, INC., RANBAXY LABORATORIES, LTD., AND
RANBAXY PHARMACEUTICALS, INC.,**
Defendants.

2012-1417

Appeal from the United States District Court for the
Eastern District of Pennsylvania in No. 06-CV-2768,
Judge Mitchell S. Goldberg.

Decided: April 8, 2013

ROBERT B. BREISBLATT, Katten Muchin Rosenman, LLP, of Chicago, Illinois, argued for plaintiff-appellee. With him on the brief were BRIAN J. SODIKOFF, MARTIN S. MASAR, III and CHRISTINE E. BESTOR; HOWARD R. RUBIN and CHRISTOPHER D. JACKSON, of Washington, DC.

WILLIAM F. LEE, Wilmer Cutler Pickering Hale and Dorr, LLP, of Boston, Massachusetts, argued for defendant-appellant. With him on the brief were MARK C. FLEMING, GREGORY P. TERAN, DANIEL M. ESRICK, and ANDREW J. DANFORD; WILLIAM G. MCELWAIN, and CAROLYN JACOBS CHACHKIN, of Washington, DC; ROBERT J. GUNTHER, JR. and OMAR KHAN, of New York, New York.

Before RADER, *Chief Judge*, LOURIE, and O'MALLEY,
Circuit Judges.

PER CURIAM.

We affirm the trial court's judgments of invalidity and unenforceability with respect to Cephalon, Inc.'s ("Cephalon") U.S. Reissue Patent No. 37,516. We do so with the understanding that the court's inequitable conduct finding was based on the conduct of Dr. Peter Grebow and Mr. Richard Burgoon, while acting within the course and scope of their employment or as officers and/or employees of Cephalon. No pleading asserted that Mr. Paul T. Clark committed inequitable conduct, and we do not read the opinion below as finding that he personally committed inequitable conduct.

AFFIRMED