

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2008-1594, 2009-1070

IN RE '318 PATENT INFRINGEMENT LITIGATION

JANSSEN PHARMACEUTICA N.V., JANSSEN L.P.,
and SYNAPTECH, INC.,

Plaintiffs-Appellants,

v.

TEVA PHARMACEUTICALS USA, INC. and TEVA PHARMACEUTICAL INDUSTRIES,
LTD.,

Defendants,

and

MYLAN PHARMACEUTICALS, INC. and MYLAN LABORATORIES, INC.,

Defendants-Appellees,

and

DR. REDDY'S LABORATORIES, INC. and DR. REDDY'S LABORATORIES, LTD.,

Defendants-Appellees,

and

BARR LABORATORIES, INC.,

Defendant-Appellee,

and

PUREPAC PHARMACEUTICAL CO. and ACTAVIS GROUP,

Defendants-Appellees,

and

ALPHAPHARM PTY LTD.,

Defendant-Appellee.

Appeals from the United States District Court for the District of Delaware,
in consolidated case nos. 05-CV-356, 05-CV-371, 05-CV-380, 05-CV-381, 05-CV-382,
05-CV-420 AND 05-CV-451, Judge Sue L. Robinson.

2009-1088

JANSSEN PHARMACEUTICA, N.V., JANSSEN, L.P.,
ORTHO-MCNEIL NEUROLOGIES, INC., and SYNAPTECH, INC.,

Plaintiffs-Appellants,

v.

BARR LABORATORIES, INC., and BARR PHARMACEUTICALS, INC.,

Defendants-Appellees.

Appeal from the United States District Court for the District of New Jersey in
case no. 06-CV-3308, Judge Joel A. Pisano.

ON MOTION

Before DYK, Circuit Judge.

ORDER

Janssen Pharmaceutica, N.V. et al. (Janssen) move without opposition to consolidate appeal nos. 2008-1594, 2009-1070 with 2009-1088. Barr Laboratories, Inc. move for a 30-day extension of time, until March 4, 2009, for all appellees to file their briefs. Barr withdraws its motion for an extension of time. Teva Pharmaceuticals USA, Inc. et al. (Teva) move to remove Teva from the official caption. Janssen moves for a 28-day extension of time, until March 23, 2009, to file its reply brief. The appellees respond. Janssen moves to stay proceedings in 2009-1088 pending a ruling on its motion to consolidate or, in the alternative, to stay proceedings in 2009-1088 pending the court's disposition in 2008-1594, 2009-1070.

2008-1594 et al.

Janssen states that in the district court proceedings underlying 2008-1594, 2009-1070, the United States District Court for the District of Delaware determined that Janssen's patent was invalid for lack of enablement. In the district court proceedings underlying 2009-1088, the United States District Court for the District of New Jersey entered judgment that the same patent was invalid for lack of enablement based on the opinion of the Delaware district court and a stipulation of the parties. Under these circumstances, the court agrees that consolidation is warranted. Because Janssen and the appellees have already filed their brief in 2008-1594, 2009-1070, Janssen and the appellees are directed to file replacement briefs incorporating their arguments concerning those appeals and 2009-1088.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion to consolidate is granted.
- (2) Janssen is directed to file a replacement brief incorporating its arguments concerning 2008-1594, 2009-1070 and 2009-1088 within 14 days of the date of filing of this order.
- (3) The appellees are directed to file replacement briefs incorporating their arguments concerning 2008-1594, 2009-1070 and 2009-1088 within 14 days of the date of service of Janssen's replacement brief.
- (4) Barr's motion for an extension of time is withdrawn.
- (5) Teva's motion to reform the caption is granted to the extent that Teva is no longer listed as an appellee in the official caption.
- (6) The revised official caption is reflected above.

(7) Janssen's motion for an extension of time is moot. Janssen should calculate the due date for its reply brief from the date of service of the last of the appellees' briefs.

(8) Janssen's motion to stay pending a ruling on its motion to consolidate is moot.

FOR THE COURT

FEB 24 2009

Date

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s17

/s/ Jan Horbaly
Jan Horbaly
Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

FEB 24 2009

**JAN HORBALY
CLERK**